



MEMORANDUM

TO: EDUCATION TASK FORCE MEMBERS
FROM: DAVID J. MYSLINSKI, DIRECTOR, EDUCATION TASK FORCE
RE: 35-DAY MAILING—EDUCATION TASK FORCE MEETING
DATE: OCTOBER 28, 2010

The American Legislative Exchange Council (ALEC) will host its 2010 States & Nation Policy Summit, December 1–3, 2010, at the Grand Hyatt Washington in Washington, D.C. The full Education Task Force will meet 2:30 p.m. to 5:30 p.m., Friday, December 3. In addition to the Task Force Meeting, there will be multiple events throughout the conference regarding education, as listed below.

Workshop: Strategies to Enhance the Higher Education Conversation
Wednesday, December 1, 2010
3:45 p.m. – 5:00 p.m.

Higher Education Subcommittee
Thursday, December 2, 2010
2:30 p.m. – 3:30 p.m.

Education Task Force Meeting
Friday, December 3, 2010
2:30 p.m. – 5:30 p.m.

About the 35-Day Mailing

The 35-Day Mailing comprises the information you will need for ALEC’s 2010 States & Nation Policy Summit. Please review all agendas, proposed legislation, and Task Force operating procedures to be an active discussant in legislation review and policy presentations.

In addition to receiving the 35-Day Mailing via e-mail, you may also access it on the Education Task Force’s webpage at www.alec.org (click on the “Task Force Member Area” tab). Keep in mind that you will need your ALEC username and password to access the 35-Day Mailing material online. If you don’t have an ALEC login, or if you would like to change your username and password, contact Briana Mulder at (202) 742-8507 or at bmulder@alec.org. If you would like to receive 35-Day Mailings “snail-mailed” to you, please contact Monica Mastracco at mmastracco@alec.org or at (202) 742-8525. We will assume that you prefer the 35-Day Mailing e-mailed to you unless you indicate otherwise.

Registration

You can register for the States & Nation Policy Summit by visiting ALEC's website at www.alec.org. You may also register by faxing in the enclosed registration form to (202) 331-1344, or by calling (202) 742-8538.

Enclosed Materials

You will find these materials in the following pages:

- Registration and Housing Forms
- Agenda-At-A-Glance
- Tentative Agenda for the Higher Education Subcommittee
- Tentative Agenda for the Education Task Force Meeting
- Draft Meeting Minutes from ALEC's 37th Annual Meeting
- Proposed Model Legislation:
 - ***A-Plus Literacy Act***
Sponsored by Matt Ladner, Goldwater Institute
 - ***Amendments to ALEC's Open Enrollment Act***
Sponsored by Ben DeGrow, Independence Institute
(An edited version and a final version of this bill are attached.)
 - ***Resolution in Support of Private Sector Colleges and Universities***
Sponsored by Melissa Garrett, Bridgepoint Education
 - ***Parent Trigger Act***
Sponsored by Marc Oestreich, The Heartland Institute
(A policy paper on the Parent Trigger is also attached.)
- Education Task Force Roster
- ALEC's Mission Statement, Scholarship Policy by Meeting, and Task Force Operating Procedures

Questions?

I look forward to seeing you in Washington, D.C., for ALEC's 2010 States & Nation Policy Summit. If you have any questions or concerns regarding the meeting, feel free to contact me at dmyslinski@alec.org or (202) 742-8531.

ATTENDEE

REGISTRATION / HOUSING FORM

AMERICAN LEGISLATIVE EXCHANGE COUNCIL
ALEC



Early registration deadline: November 10, 2010
Housing cut-off date: November 04, 2010

**Grand Hyatt Washington
Hotel**
1000 H Street, NW
Washington, DC 20001

December 1-3, 2010

Online
www.alec.org

Fax (credit cards only)
202.331.1344

Phone / Questions • Mon-Fri, 9am-5:30 pm Eastern
Registration: 202.742.8538 / Housing: (800) 221-3531

Mail • ALEC Registration & Housing
P.O. Box 96754 • Washington, DC 20090-6754

ATTENDEE INFORMATION

Prefix (required) ☐ Sen ☐ Rep ☐ Del ☐ Mr ☐ Mrs ☐ Ms ☐ Other _____
Last Name _____ First Name _____ Middle Initial _____ Badge Nickname _____
Title _____
Organization (required) _____
Address _____ Suite # _____
City _____ State/Province _____ Country _____ ZIP/Postal code _____
Daytime phone _____ Fax _____ Alternate phone _____
Email (confirmation will be sent by email) _____
Spouse / Guest: If registering a spouse or guest, please complete the spouse/guest registration form.

REGISTRATION INFORMATION

****Save \$50 on registration by booking your hotel room in ALEC's headquarter hotel****

DISCOUNTED REGISTRATION FEES are extended only to registrants booking ALEC's headquarter hotel. Your \$50 savings will become valid when accommodations are confirmed.

Note: Member fees are subject to verification

- ☐ I have already registered # _____
- ☐ ALEC Legislative Member
- ☐ Legislator / Non-Member
- ☐ Newly Elected Legislator (2010 Election Cycle)
- ☐ ALEC Private Sector Member
- ☐ Private Sector Non-Member
- ☐ ALEC Non-Profit Member (501(c)(3) status required)
- ☐ Non-Profit Non-Member (501(c)(3) status required)
- ☐ Legislative Staff / Government
- ☐ ALEC Legacy Member

	Early Until 11/10	On-Site Begin 11/11	Amount
<input type="checkbox"/> I have already registered # _____			
<input type="checkbox"/> ALEC Legislative Member	\$ 375	\$ 475	\$ _____
<input type="checkbox"/> Legislator / Non-Member	\$ 475	\$ 575	\$ _____
<input type="checkbox"/> Newly Elected Legislator (2010 Election Cycle)	\$ 375	\$ 475	\$ _____
<input type="checkbox"/> ALEC Private Sector Member	\$ 725	\$ 875	\$ _____
<input type="checkbox"/> Private Sector Non-Member	\$ 925	\$ 1100	\$ _____
<input type="checkbox"/> ALEC Non-Profit Member (501(c)(3) status required)	\$ 525	\$ 625	\$ _____
<input type="checkbox"/> Non-Profit Non-Member (501(c)(3) status required)	\$ 675	\$ 825	\$ _____
<input type="checkbox"/> Legislative Staff / Government	\$ 400	\$ 500	\$ _____
<input type="checkbox"/> ALEC Legacy Member	\$ 0	\$ 0	\$ _____

Promo Code _____

TOTAL REGISTRATION FEES: \$ _____

Note: Registration forms with enclosed payments must be postmarked by November 10, 2010 to be eligible for early registration rates. Forms and/or payments received after November 10 will be subject to the on-site registration rate. If registering after November 10, please bring completed form and payment to register on-site.

REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation. If registering by form, confirmation will be emailed, faxed, or mailed within 72 hours of receipt of payment.

REGISTRATION CANCELLATION / REFUND INFORMATION

Registrations cancelled prior to 5pm Eastern November 10, 2010 are subject to a \$100 cancellation fee. Registrations are non-refundable after 5pm Eastern November 10, 2010.

HOUSING

RESERVATION CUTOFF FOR ALEC DISCOUNTED RATE IS NOVEMBER 4, 2010

****Save \$50 on registration by booking your hotel room in ALEC's headquarter hotel****

- ☐ I do not require a reservation at this time.

Arrival Date _____ Departure Date _____

- ☐ Sharing room with _____

Room type

- ☐ Single (1 person - 1 bed) \$ 269
- ☐ Double (2 persons - 1 bed) \$ 294
- ☐ Db/Db (2 persons - 2 beds) \$ 294
- ☐ Triple (3 persons - 2 beds) \$ 319
- ☐ Quad (4 persons - 2 beds) \$ 344
- ☐ Government rate Not Available

* All rates DO NOT include sales tax 14.5 % (subject to change)

Suites and upgraded accommodations are available upon request. Please call ALEC Housing at the number listed above for additional information.

Special requests

- ☐ ADA room required:
____ Audio ____ Visual ____ Mobile
- ☐ Rollaway / crib: _____
- ☐ Other: _____

METHOD OF HOUSING PAYMENT

- ☐ Please use the same method of payment as above.

Credit Card: Credit Cards will be used to guarantee the reservation.

- ☐ Amer Express ☐ Visa ☐ MasterCard ☐ Discover

Card # _____

Cardholder (please print) _____

Exp Date (mm/yy) _____ Security Code _____

Signature _____

Checks: Payment must be in U.S. currency drawn on a U.S. bank. Please make check payable to ALEC and send to above address.

Note: Cutoff for reservations at the ALEC rate is November 4, 2010. After November 4, 2010, every effort will be made to accommodate new reservations, based on availability and rate.

HOUSING CONFIRMATION INFORMATION

Online reservations will receive immediate email confirmation. Reservations received by form will be confirmed via email, fax, or mail within 72 hours of receipt.

HOUSING CANCELLATION / REFUND INFORMATION

Credit cards will be charged one night room and tax in the event of a no show or if cancellation occurs within 72 hours prior to arrival. Departures prior to the departure date confirmed by the hotel at check-in will result in a charge of one night room and tax. Please obtain a cancellation number when your reservation is cancelled.

SPOUSE / GUEST REGISTRATION / HOUSING FORM

December 1-3, 2010

AMERICAN LEGISLATIVE EXCHANGE COUNCIL
ALEC

**Grand Hyatt Washington
Hotel**
1000 H Street, NW
Washington, DC 20001



Grand Hyatt Washington

Online
www.alec.org

Fax (credit cards only)
202.331.1344

Phone / Questions • Mon-Fri, 8am-5:30 pm Eastern
202.742.8538

Mail • ALEC Registration & Housing
P.O. Box 96754 • Washington, DC 20090-6754

ATTENDEE INFORMATION IS REQUIRED TO REGISTER A SPOUSE OR GUEST

Prefix (required) ☐ Sen ☐ Rep ☐ Del ☐ Mr ☐ Mrs ☐ Ms ☐ Other _____
Last Name _____ First Name _____ Middle Initial _____ Badge Nickname _____
Title _____
Organization (required) _____
Address _____ Suite # _____
City _____ State/Province _____ Country _____ ZIP/Postal code _____
Daytime phone _____ Fax _____ Alternate phone _____
Email (confirmation will be sent by email) _____

SPOUSE / GUEST REGISTRATION

SPOUSE / GUEST REGISTRATION GUIDELINES

1. Spouse / guest registration is meant to accommodate legal spouse and immediate family members.
2. Attendees from the same organization must register independently. No exception will be made.
3. Spouse / guest designation will be clearly visible on name badge.
4. Spouse / guest registrants are not eligible to attend ALEC Task Force meetings.

Last Name _____ First Name _____ Middle initial _____ Badge Nickname _____
Last Name _____ First Name _____ Middle initial _____ Badge Nickname _____
Last Name _____ First Name _____ Middle initial _____ Badge Nickname _____

SPOUSE / GUEST REGISTRATION FEES	Number of Spouse/Guest(s)	Early Until 11/10	On-Site Begin 11/11	TOTAL
<input type="checkbox"/> Spouse / Guest <i>please note name(s) above</i>	_____	\$ 150	\$ 150	\$ _____

METHOD OF SPOUSE / GUEST REGISTRATION PAYMENT

Credit Card: Credit cards will be charged immediately. Please fax to the above number for processing.

☐ Amer Express Card # _____
☐ Visa Cardholder (please print) _____
☐ MasterCard Exp Date (mm/yy) _____ Security Code _____
Signature _____

Checks: Payment must be in U.S. currency drawn on a U.S. bank. Please make check payable to ALEC Registration and send to above address.

Note: If registering after November 10, please bring completed form and payment to register on-site.

REGISTRATION CONFIRMATION INFORMATION

Online registrants will receive immediate email confirmation to the address provided above. If registering by form, confirmation will be emailed, faxed, or mailed within 72 hours of receipt of payment.

REGISTRATION CANCELLATION / REFUND INFORMATION

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2010 States & Nation Policy Summit Agenda*

Tuesday, November 30th		
Joint Board of Directors Meetings	8:00 a.m. - 5:30 p.m.	Farragut/Lafayette
Registration	12:00 p.m. - 5:00 p.m.	Independence Foyer
ALEC Joint Board Reception and Dinner	6:30 p.m. - 9:30 p.m.	Off-site
Wednesday, December 1st		
Registration	7:30 a.m. - 5:00 p.m.	Independence Foyer
Task Force Subcommittee Meetings	8:00 a.m. - 11:45 a.m.	
Exhibit Hall	9:00 a.m. - 3:00 p.m.	Independence Foyer
State Chairs Meeting	9:00 a.m. - 11:45 a.m.	Willson/Roosevelt
New Legislator Orientation	10:30 a.m. - 11:30 a.m.	Franklin Square
Opening Plenary Luncheon	12:00 p.m. - 2:00 p.m.	Independence A
Task Force Chairs Meeting	2:15 p.m. - 3:15 p.m.	Franklin Square
Workshop I: Comparative Effectiveness Research: Rationing Care or Improving Quality?	2:15 p.m. - 3:30 p.m.	Farragut/Lafayette
Workshop II: Higher Education	3:45 p.m. - 5:00 p.m.	Farragut/Lafayette
National Chairman's Reception, <i>by invitation only</i>	5:30 p.m. - 6:30 p.m.	Independence IH
Hospitality Suite	9:00 p.m. - 11:00 p.m.	Congressional Parlor
Thursday, December 2nd		
Registration	7:30 a.m. - 5:00 p.m.	Independence Foyer
Plenary Breakfast	8:00 a.m. - 9:15 a.m.	Independence A
Exhibit Hall	9:00 a.m. - 3:00 p.m.	Independence Foyer
Workshop III: Show Me the Money: Budget Transparency in the States	9:30 a.m. - 10:45 a.m.	Farragut Square
Workshop IV: Delivering Justice to Rape Victims while Minimizing Taxpayer Cost	9:30 a.m. - 10:45 a.m.	Lafayette Park
Workshop V: Cutting Crime and Budgets: The National Movement	11:00 a.m. - 12:15 p.m.	Farragut Square
Workshop VI: EPA's Regulatory Assault: Higher Prices, Fewer Jobs, and Less Energy	11:00 a.m. - 12:15 p.m.	Lafayette Park
Plenary Luncheon	12:30 p.m. - 2:15 p.m.	Independence A
Task Force Meetings	2:30 p.m. - 5:30 p.m.	
• Energy, Environment, and Agriculture		Farragut/Lafayette
• Health and Human Services		
• Public Safety and Elections		Independence CDE
• Tax and Fiscal Policy		Independence FG Independence IH
Gala Holiday Reception	6:00 p.m. - 8:00 p.m.	Constitution AB
Hospitality Suite	9:00 p.m. - 11:00 p.m.	Congressional Parlor

Friday, December 3rd		
Registration	7:30 a.m. - 2:00 p.m.	Independence Foyer
Plenary Breakfast	8:00 a.m. - 9:15 a.m.	Independence A
Exhibit Hall	9:00 a.m. - 3:00 p.m.	Independence Foyer
Workshop VII: Federalism I	9:30 a.m. - 10:45 a.m.	Farragut Square
Workshop VIII: Overcriminalization	9:30 a.m. - 10:45 a.m.	Lafayette Park
Workshop IX: A Tax in Sheep's Clothing: How Extended Producer Responsibility Mandates Can Hurt Consumers and Business	11:00 a.m. - 12:15 p.m.	Farragut Square
Workshop X: Federalism II	11:00 a.m. - 12:15 p.m.	Lafayette Park
Plenary Luncheon	12:30 p.m. - 2:15 p.m.	Independence A
Task Force Meetings	2:30 p.m. - 5:30 p.m.	
• Civil Justice		Farragut/Lafayette
• Commerce, Insurance and Economic Development		Independence GHI
• Education		Independence CDE
• Telecommunications and Information Technology		Constitution A
• International Relations		Constitution B
Louisiana Preview Reception for 2011	5:30 p.m. - 6:30 p.m.	Franklin Square
Annual Meeting		
State Delegation Night	Beginning at 6:30 p.m.	See Your State Chair

* Agenda subject to change.



Education Task Force
Higher Education Subcommittee Meeting
ALEC's 2010 States & Nation Policy Summit | Thursday, December 2, 2010
2:30 p.m. – 3:30 p.m.

Tentative Agenda

- 2:30 p.m.** **Welcome and Introductions**
- 2:35 p.m.** **Discussion: *Resolution in Support of Private Sector Colleges and Universities***
Sponsored by Melissa Garrett, Bridgepoint Education
- 2:55 p.m.** **Presentation: Performance Funding**
Kristin Conklin, HCM Strategists
- 3:30 p.m.** **Good of the Order/Adjournment**



Education Task Force Meeting

ALEC's 2010 States & Nation Policy Summit | Friday, December 3, 2010

2:30 p.m. – 5:30 p.m.

Tentative Agenda

- 2:30 p.m. Welcome and Introductions**
Sen. Nancy Spence, Colorado, Public Sector Task Force Chair
Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair
- 2:40 p.m. New Member: Heartland Institute**
- 2:45 p.m. Discussion and Voting: *A-Plus Literacy Act***
Sponsored by Matt Ladner, The Goldwater Institute
Moderated by Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair
- 3:30 p.m. Presentation: Performance Audits**
Harry Stille, Higher Education Policy Council
- 3:45 p.m. Presentation: Education Reform after the election**
Michael J. Petrilli, Thomas B. Fordham Institute
- 4:05 p.m. Discussion and Voting: Amendments to ALEC's *Open Enrollment Act***
Sponsored by Ben DeGrow, Independence Institute
Moderated by Sen. Nancy Spence, Colorado, Public Sector Task Force Chair
- 4:25 p.m. Presentation: Collective Bargaining Transparency**
Ben DeGrow, Independence Institute
- 4:40 p.m. Discussion and Voting: *Resolution in Support of Private Sector Colleges and Universities***
Sponsored by Melissa Garrett, Bridgepoint Education
Moderated by Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair
- 5:00 p.m. Presentation: ALEC's *Founding Principles Act***
Sen. Don Vaughan, North Carolina
- 5:05 p.m. Discussion and Voting: *Parent Trigger Act***
Sponsored by Marc Oestreich, Heartland Institute
Moderated by Ms. Mickey Revenaugh, Connections Academy, Private Sector Task Force Chair
- 5:30 p.m. Good of the Order/Adjournment**



**Education Task Force
Draft Meeting Minutes**

ALEC's 37th Annual Meeting | Friday, August 6, 2010
2:30 p.m. – 5:30 p.m.

Legislative Members in Attendance (27)

Rep. Noal Akins, Mississippi Legislature
Rep. David Casas, Georgia General Assembly
Sen. Barbara Cegavske, Nevada Legislature
Del. Kirk Cox, Virginia General Assembly
Sen. Jane Cunningham, Missouri Legislature
Sen. Doug Davis, Mississippi Legislature
Sen. Margaret Dayton, Utah Legislature
Rep. Greg Forristall, Iowa Legislature
Rep. Herb Frierson, Mississippi Legislature
Rep. Joe Harrison, Louisiana Legislature
Rep. Brenda Heller, North Dakota Legislature
Rep. Steve Huebert, Kansas Legislature
Rep. Jim Jackson, Texas Legislature
Rep. Linda Johnson, North Carolina General Assembly
Rep. Tim Jones, Missouri Legislature
Rep. Wes Keller, Alaska Legislature
Sen. Keith King, Colorado Legislature
Del. Jonathan Miller, West Virginia Legislature
Rep. Geanie Morrison, Texas Legislature
Rep. Cindy Noe, Indiana Legislature
Rep. Todd Schlekeway, South Dakota Legislature
Sen. Florence Shapiro, Texas Legislature
Rep. Will Smith, New Hampshire Legislature
Rep. Gerald Stebelton, Ohio Legislature
Del. Nancy Stocksdales, Maryland Legislature
Rep. Matt Wingard, Oregon Legislature
Rep. Addia Wuchner, Kentucky Legislature

Private Sector Members in Attendance (26)

Tom Bolvin, K12
Stephen Bowen, The Maine Heritage Policy Center
Dale Buwalda, The Foundation for Educational Choice
Kevin Corcoran, Lumina Foundation for Education
Paul DeGiusti, Corinthian Colleges, Inc
Ben DeGrow, Independence Institute
Rob Fairbank, K12
Liv Finne, Washington Policy Center
Bryan Flood, K12
Melissa Garrett, Bridgepoint Education

Lisa Gillis, Insight Schools
Lyndsey Hall, Association of Private Sector Colleges and Universities
David Hansen, National Association of Charter School Authorizers
Collin Hitt, Illinois Policy Institute
David Jackson, Institute for Justice
Scott Jensen, Alliance for School Choice
Tim Keller, Institute for Justice Arizona Chapter
Matt Ladner, Goldwater Institute
Vicki Murray, Pacific Research Institute
Brian Newman, Association of Private Sector Colleges and Universities
Susan Patrick, iNACOL
Mickey Revenaugh, Connections Academy
Harry Stille, Higher Education Policy Council
Terry Stoops, John Locke Foundation
Michael Van Beek, Mackinac Center for Public Policy
Richard Vedder, Ohio University

Others in Attendance (47)

Sen. Stuart Adams, State of Utah
Rep. Sue Allen, Missouri Legislature
Rep. Gary Banz, Oklahoma Legislature
Carl Bearden, United For Missouri's Future
Brandy Bivens, Baker, Donelson, Bearman, Caldwell & Berkowitz, PC
Rep. Hugh Blackwell, North Carolina General Assembly
Rep. Ellen Brandom, Missouri Legislature
Rep. Kevin Bratcher, Kentucky Legislature
Rep. Buzz Brockway, Georgia General Assembly
Wiley Cauthen, Tiger Energy Services, Inc.
Rep. Josh Clark, Georgia General Assembly
Rep. Bill Coley, Ohio Legislature
Rep. Chris Coutu, Connecticut General Assembly
Ms. Laurie Crehan, Office of the Deputy Under Secretary of Defence, Military Community & Family Policy
Anna Davis, National Board for Professional Teaching Standards
Del. Walt Duke, West Virginia Legislature
Sen. Don East, North Carolina General Assembly
Anne Mattson Gauss, Embassy of Canada
Rep. Ryan Haynes, Tennessee Legislature
Mrs. Michelle Holmes
Rep. Mitch Holmes, Kansas Legislature
Rep. Craig Horn, North Carolina General Assembly
Stuart Jolly, Americans for Prosperity
Rep. Tim Kleinschmidt, Texas Legislature
James Lansberry, Alliance of Health Care Sharing Ministries
Del. Jimmie Massie, Virginia General Assembly
David McCloud, The Advocacy Group

Rep. Carole Murray, Colorado Legislature
Mr. Paul Nardo, Virginia General Assembly-Chief of Staff
Rep. Dora Olivo, Texas Legislature
Sen. Ralph Ostmeyer, Kansas Legislature
Lauren Perry, American Federation for Children
Rep. Frank Pratt, Arizona Legislature
Angie Recker, Foundation for Excellence in Education
Jon Robinson, K12
Sen. Sander Rue, New Mexico Legislature
Rep. John Schroder, Louisiana Legislature
Rep. Mark Shelton, Texas Legislature
Rep. Jason Smith, Missouri Legislature
Rep. Fred Steen, North Carolina General Assembly
Rep. Marie Strickler, New Mexico Legislature
Sen. Reginald Tate, Tennessee Legislature
Ms. Paula Tonelli, Legislative Staff
Karen Vedder, Educator
Matt Warner, ATLAS
Rep. Gene Ward, Hawaii Legislature
Bob Williams, Evergreen Freedom Foundation

The Education Task Force Meeting began at 2:30 p.m.

The meeting began with an introduction of the Education Task Force Executive Committee, roundtable introductions of Education Task Force meeting attendees, and introductions of new private-sector members. New members included: Bridgepoint Education and Career College Association. Each gave a brief presentation on their company.

The Education Task Force saw several presentations on various topics, including an update on higher education from Dr. Richard Vedder and Dr. Vance Fried, an update on *Garriott v. Winn*, a pending lawsuit currently facing the U.S. Supreme Court, from Tim Keller, and an introduction to the A-Plus Literacy Act, by Dr. Matt Ladner.

Education Task Force members considered the *Higher Education Scholarship for High School Pupils*, sponsored by Rep. Gary Daniels, New Hampshire. After discussion, the legislation passed the public sector with one dissenting vote and passed the private sector with two dissenting votes.

Education Task Force members then considered the *Credit Articulation Agreements Act*, sponsored by Sen. Keith King, Colorado. The legislation passed the public sector unanimously and passed the private sector with two dissenting votes.

Education Task Force members considered the *Online Learning Clearinghouse Act*, sponsored by Rep. Bill Coley, Ohio. After discussion, the legislation passed both the public and private sectors unanimously.

Finally, Education Task Force members considered the *Great Teachers and Leaders Act*, sponsored by Task Force Chair Sen. Nancy Spence, Colorado. After discussion, it passed both the public and private sectors unanimously.

The meeting adjourned at 5:30 p.m.

The A-Plus Literacy Act

Summary

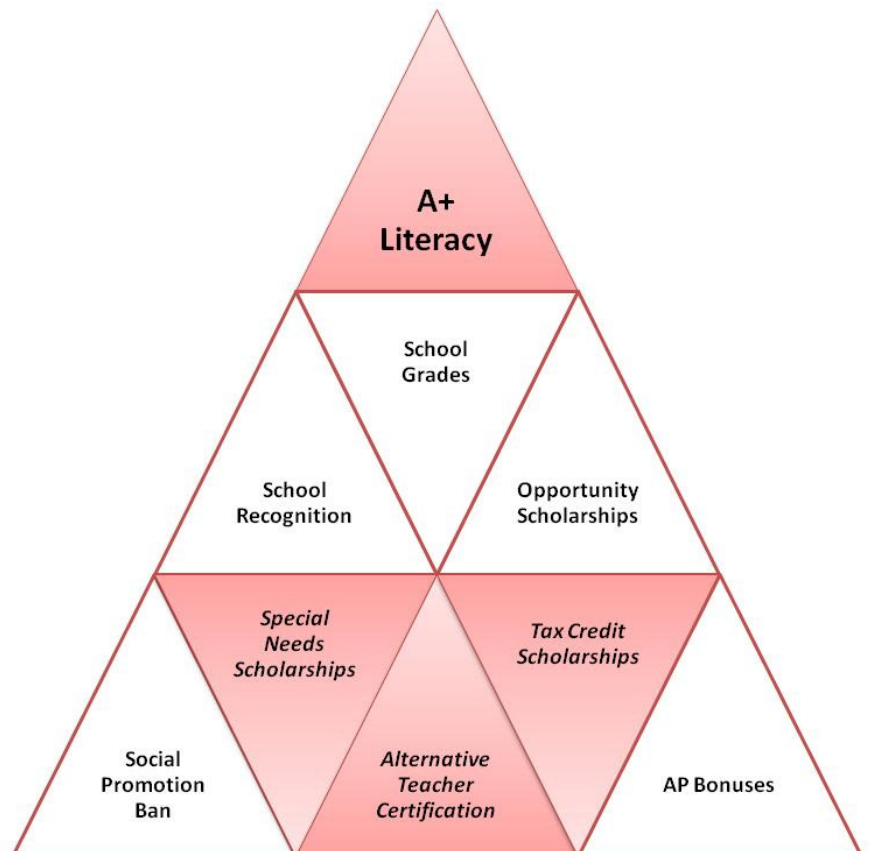
The A-Plus Literacy Act is inspired by a comprehensive set of K–12 reforms implemented by Florida lawmakers in 1999, and supplemented over the next decade. As a result of these reforms, Florida's scores on the highly respected National Assessment of Educational Progress (NAEP) have soared for all major student subgroups. All 50 states began taking the NAEP exams in 2003, and since that point, Florida students have made the most gains. In 2009, Florida's Hispanic students outscored or tied 31 statewide averages on 4th-grade reading, and their African-American students outscored or tied eight statewide averages.

This bill is written as an omnibus education reform act. Some may find it most useful to introduce as an omnibus bill, but others may prefer to introduce separate measures depending upon legislative dynamics. Regardless of the number of bills introduced, it is suggested that lawmakers pursue the full package of reforms. High quality research evaluations have found significant gains associated with several different reform elements, but working in concert, these elements can radically improved academic achievement for all students.

Note that this omnibus bill completely incorporates three existing ALEC model bills: the *Alternative Teacher Certification Act*, the *Great Schools Tax Credit Program Act*, and the *Special Needs Scholarship Program Act*. The omnibus bill also includes additional background and drafting notes for all of the chapters.

Chapters of the A-Plus Literacy Act

- (1) School and District Report Cards and Grades.
- (2) School Recognition Program to financially reward schools for good/improving Report Card grades.
- (3) Opportunity Scholarships to provide alternatives for students in schools with poor Report Card grades.
- (4) Scholarships for Children with Disabilities. (*ALEC Model Bill: Special Needs Scholarship Program Act*)
- (5) Tax credit scholarships for low-income students. (*ALEC Model Bill: Great*



Schools Tax Credit Program Act)

(6) Alternative Teacher Certification. (*ALEC Model Bill: Alternative Teacher Certification Act*)

(7) Ban on Social Promotion based on tracking of basic literacy skills.

(8) School and Teacher bonuses for student Advanced Placement success.

Chapter 1. School and District Report Cards and Grades

Section 1. {Title} A-Plus Accountability and Transparency Program Act.

Section 2. {Definitions}

(A) “Department” — The state Department of Public Instruction or an organization chosen by the state.

(B) “School and District Report Cards” — The Department shall prepare annual reports of the results of the statewide assessment program to describe student achievement in the state, each district, and each district and charter school. The Department shall prescribe the design and content of these reports, which must include, without limitation, descriptions of the performance of all schools participating in the assessment program and all of their major student populations as determined by the Department. These reports must also include the median scores of all eligible students who scored at or in the lowest 25th percentile of the state in the previous school year; provided, however, that the provisions of Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. s. 1232g pertaining to student records and any similar state legislation apply to this section.

(C) “School Grades” — The annual report shall identify schools as having one of the following grades:

- (1) “A,” schools making excellent progress.
- (2) “B,” schools making above average progress.
- (3) “C,” schools making satisfactory progress.
- (4) “D,” schools making less than satisfactory progress.
- (5) “F,” schools failing to make adequate progress.

(D) Each school designated with a grade of “A,” making excellent progress, or having improved at least two grade levels, shall have greater authority over the allocation of the school’s total budget, state categorical funds, any lottery funds, grants, and local funds, as specified in (State Board of Education or Department) rule. The rule must provide that the increased budget authority shall remain in effect until the school’s grade declines.

(E) Designation of School Grades

- (1) Each school that has students who are tested and included in the school grading system shall receive a school grade, except as follows:
- (2) A school shall not receive a school grade if the number of its students tested and included in the school grading system is less than the minimum sample size

necessary, based on accepted professional practice, for statistical reliability and prevention of the unlawful release of personally identifiable student data under 20 U.S.C. s. 1232g and similar state privacy laws.

(3) The Department can develop an alternate rating system for alternative schools.

(F) A school's grade shall be based on a combination of:

(1) Student achievement scores on the annual accountability assessment for all students, including achievement scores for students seeking a special diploma.

(2) Student learning gains for all students as measured by the annual accountability assessments in all grades.

(3) Student learning gains of the lowest 25th percentile of students in the school in reading and mathematics on the state accountability exam.

(4) The Department shall assign school grades based one half on overall grades, one quarter on the learning gains of all students, and one quarter on the learning gains of the lowest 25th percentile of students.

(G) Student assessment data used in determining school grades shall include:

(1) The aggregate scores of all eligible students enrolled in the school who have been assessed on the state accountability exam.

(2) The gain scores of all eligible students enrolled in the school who has been assessed on the state accountability exam and who has scored at or in the lowest 25th percentile of students in the school in reading and mathematics.

(3) The gain scores of all eligible students.

(4) The term "eligible students" in this subparagraph does not include students attending an alternative school who are subject to district school board policies for expulsion for repeated or serious offenses, who are in dropout retrieval programs serving students who have officially been designated as dropouts, or who are in programs operated or contracted by the Department of Juvenile Justice.

(H) "School Improvement Ratings" — The annual report shall identify each school's performance as having improved, remained the same, or declined. The Department shall base this school improvement rating on a comparison of the current year's and previous year's student and school performance data. The Department shall develop school awards for schools that improve at least one grade level.

(I) "School Report Cards" — The Department of Education shall annually develop, in collaboration with the school districts, a school report card to be delivered to parents

throughout each school district. The report card shall include the school's grade, information regarding school improvement, an explanation of school performance as evaluated by the federal No Child Left Behind Act of 2001, and indicators of return on investment. The department on its website shall publish each school's report card annually, and the school district shall provide the school report card to each parent.

(J) "Performance Based Funding" — The Legislature may factor in the performance of schools in calculating any performance-based funding policy that is provided for annually in the General Appropriations Act.

(K) "District Grades" — The annual report shall include district grades, which shall consist of weighted district average grades, by level, for all elementary schools, middle schools, and high schools in the district. A district's weighted average grade shall be calculated by weighting individual school grades.

(L) "Increasing Standards" — In any year in which 80 percent or more of elementary, middle or high schools receive a grade of A or B, the Department shall raise the number of points required to receive an A or B grade by 5 percent.

Chapter 2. School Recognition Program

Section 1. {Findings and Intent} The Legislature finds that there is a need for a performance incentive program for outstanding faculty and staff in highly productive schools. The Legislature further finds that performance-based incentives are commonplace in the private sector and should be infused into the public sector as a reward for productivity.

Section 2. {Basic Elements of the School Recognition Program}

(A) The School Recognition Program is created to provide financial awards to public schools that:

- (1) Sustain high performance by receiving a school grade of “A,” making excellent progress; or
- (2) Demonstrate exemplary improvement due to innovation and effort by improving at least one letter grade or by improving more than one letter grade and sustaining the improvement the following school year.
- (3) All public schools, including charter schools, that receive a school grade are eligible to participate in the program.
- (4) All selected schools shall receive financial awards depending on the availability of funds appropriated and the number and size of schools selected to receive an award. Funds must be distributed to the school’s fiscal agent and placed in the school’s account and must be used for purposes listed in Section 3 as determined jointly by the school’s staff. If school staff cannot reach agreement by November 1, the awards must be equally distributed to all classroom teachers currently teaching in the school.

(B) School recognition awards must be used for the following:

- (1) Nonrecurring bonuses to the faculty and staff;
- (2) Nonrecurring expenditures for educational equipment or materials to assist in maintaining and improving student performance; or
- (3) Temporary personnel for the school to assist in maintaining and improving student performance.
- (4) Notwithstanding statutory provisions to the contrary, incentive awards are not subject to collective bargaining.

Chapter 3. Opportunity Scholarship Program.

Section 1. {Findings and Intent} The Legislature finds that the state should not compel students, against the wishes of the student's parent, to remain in a school found by the state to be failing for 2 years in a 4-year period. The state shall make available opportunity scholarships in order to give parents the opportunity for their children to attend a public school that is performing satisfactorily or to attend an eligible private school. Eligibility of a private school shall include the control and accountability requirements that, coupled with the exercise of parental choice, are reasonably necessary to secure the educational public purpose.

(A) Opportunity Scholarship Eligibility — A public school student's parent may request and receive from the Department an opportunity scholarship for the student to enroll in and attend a private school in accordance with the provisions of this section if:

- (1) The student has spent the prior school year in attendance at a public or charter school designated as performance grade category "F" and that has had 2 school years in a 4-year period of such low performance, and the student's attendance occurred during a school year in which such designation was in effect;
- (2) The student has been in attendance elsewhere in the public school system and lives within the attendance zone of such a school for the next school year; or
- (3) The student is entering kindergarten or first grade and lives within the attendance zone of such a school for the next school year.
- (4) The parent has obtained acceptance for admission of the student to a private school eligible for the program, and has notified the Department of Education and the school district of the request for an opportunity scholarship no later than July 1 of the first year in which the student intends to use the scholarship.

(B) The provisions of this section shall not apply to a students enrolled in a school operating for providing educational services to youth in Department of Juvenile Justice commitment programs.

(C) For purposes of continuity of educational choice, the opportunity scholarship shall remain in force until the student returns to a public school or, if the student chooses to attend a private school the until the student graduates. However, at any time upon reasonable notice to the Department of Education and the school district, the student's parent may remove the student from the private school and place the student in a public school.

Section 2. School District Obligations.

(A) A school district shall, for each student enrolled in or assigned to a school that has been designated as performance grade category "F" for 2 school years in a 4-year period:

(1) Timely notify the parent of the student as soon as such designation is made of all options available pursuant to this act.

(2) Offer that student's parent an opportunity to enroll the student in the public school within the district that has been designated by the as a school performing higher than that in which the student is currently enrolled or to which the student has been assigned, but not less than performance grade category "C." The parent is not required to accept this offer in lieu of requesting a state opportunity scholarship to a private school. The opportunity to continue attending the higher performing public school shall remain in force until the student graduates from high school.

(3) The parent of a student enrolled in or assigned to a school that has been designated performance grade category "F" for 2 school years in a 4-year period transfer to a higher performing school in an adjacent district, subject to the availability of space. That school district shall accept the student and report the student for purposes of the district's funding.

(B) Opportunity Scholarship students attending district schools shall take accountability exams in the district to which they have transferred.

(C) Transportation costs to a higher performing public school shall be the responsibility of the school district from which the student originated. The district may utilize state categorical transportation funds or state-appropriated public school choice incentive funds for this purpose. Transportation to private schools shall be the responsibility of parents.

Section 3. {Private School Eligibility} To be eligible to participate in the Opportunity Scholarship Program, a private school must be a private school operating in <state X>, may be sectarian or nonsectarian, and must:

(A) Demonstrate fiscal soundness by being in operation for 1 school year or provide the Department of Education with a statement by a certified public accountant confirming that the private school desiring to participate is insured. In addition, the owner or owners must have sufficient capital or credit to operate the school for the upcoming year serving the number of students anticipated with expected revenues from tuition and other sources that may be reasonably expected. In lieu of such a statement, a surety bond or letter of credit for the amount equal to the opportunity scholarship funds for any quarter may be filed with the department.

(B) Notify the Department of Education and the school district in whose service area the school is located of its intent to participate in the program under this section by May 1 of the school year preceding the school year in which it intends to participate. The notice shall specify the grade levels and services that the private school has available for the Opportunity Scholarship Program.

(C) Comply with the antidiscrimination provisions of 42 U.S.C. s. 2000d.

(D) Meet state and local health and safety laws and codes.

(E) Accept scholarship students on an entirely random and religious-neutral basis without regard to the student's past academic history; however, the private school may give preference in accepting applications to siblings of students who have already been accepted on a random and religious-neutral basis.

(F) Be subject to the instruction, curriculum, and attendance criteria adopted by an appropriate nonpublic school accrediting body and be academically accountable to the parent for meeting the educational needs of the student. The private school must furnish a school profile that includes student performance.

(G) Employ or contract with teachers who hold a baccalaureate or higher degree, or have at least 3 years of teaching experience in public or private schools, or have special skills, knowledge, or expertise that qualifies them to provide instruction in subjects taught.

(H) Comply with all state statutes relating to private schools.

(I) Accept as full tuition and fees the amount provided by the state for each student.

(J) Agree not to compel any student attending the private school on an opportunity scholarship to profess a specific ideological belief, to pray, or to worship.

(K) Adhere to the tenets of its published disciplinary procedures prior to the expulsion of any opportunity scholarship student.

Section 4. {Obligations of Program Participants}

(A) Any student participating in the Opportunity Scholarship Program must remain in attendance throughout the school year, unless excused by the school for illness or other good cause, and must comply fully with the school's code of conduct.

(B) The parent of each student participating in the Opportunity Scholarship Program must comply fully with the private school's parental involvement requirements, unless excused by the school for illness or other good cause.

Section 5. {Opportunity Scholarship Funding and Payment}

(A) The maximum opportunity scholarship granted for an eligible student shall be a calculated amount equivalent to the total state and local funding for the child including all applicable funding weights, or the or the amount of the private school's cost of educating the child, whichever is less. Fees eligible for reimbursement from the scholarship shall

include textbook fees, lab fees, and other fees related to instruction, including transportation.

(1) Following annual notification on July 1 of the number of participants, the Department of Education shall transfer from each school district's appropriated funds the calculated amount and authorized categorical accounts to a separate account for the Opportunity Scholarship Program for quarterly disbursement to the parents of participating students.

(2) Upon proper documentation reviewed and approved by the Department of Education, the state shall make opportunity scholarship payments in four equal amounts no later than September 1, November 1, February 1, and April 1 of each academic year in which the opportunity scholarship is in force. The Department of Education shall make initial payment after verification of admission acceptance, and shall make subsequent payments upon verification of continued enrollment and attendance at the private school. Payment must be by individual warrant made payable to the student's parent and mailed by the Department of Education to the private school of the parent's choice, and the parent shall restrictively endorse the warrant to the private school.

(B) No liability shall arise on the part of the state based on any grant or use of an opportunity scholarship.

Chapter 4: Special Needs Scholarship Program Act

Note: This chapter precisely mirrors the *Special Needs Scholarship Program Act* adopted as amended by the Education Task Force July 16, 2009 and approved by the ALEC Board of Directors August 2009.

Section 1. {Title} The Special Needs Scholarship Program

Section 2. {Definitions}

(A) “Program” means the Special Needs Scholarship Program created in this subchapter.

(B) “Eligible Student” means any elementary or secondary student who was eligible to attend a public school in [state] in the preceding semester or is starting school in [state] for the first time with an Individualized Education Plan, including but not limited to students who are mentally handicapped, speech and language impaired, deaf or hard of hearing, visually impaired, dual sensory impaired, physically impaired, emotionally handicapped, specific learning disabled, autistic, or hospitalized or homebound because of illness or disability.¹

(C) “Parent” includes a guardian, custodian, or other person with authority to act on behalf of the child.

(D) “Resident school district” means the public school district in which the student resides.

(E) “Department” means the state Department of Public Instruction or an organization chosen by the state.²

(F) “Participating school” means either a public school outside of the resident school district, a school run by another public entity, or any private school that provides education to elementary and/or secondary students that has notified the Department of its intention to participate in the program and comply with the program’s requirements.³

Section 3. {Basic Elements of the Special Needs Scholarship Program}

(A) Any parent of an eligible student shall qualify for a scholarship from the state for their child to enroll in and attend a participating, private school if:

(1) The student with special needs has had an Individualized Education Plan written in accordance with the rules of the Department;

(2) the student has been accepted for admission at a participating school; and

- (3) the parent has requested a scholarship from the state before the deadline established by the Department.⁴
- (B) The Department shall inform the resident school district that a student with special needs has requested a special needs scholarship. The resident school district shall provide, within three business days, the Department with a copy of the student's most current Individualized Education Plan.
- (C) Upon receipt of the eligible student's request for a scholarship, the Department shall review the Individualized Education Plan drafted by the student's public school to determine the amount of the scholarship. The Department shall provide the student's parent with a timely written explanation of its determination for the amount of the scholarship.
- (D) The maximum scholarship granted to an eligible student shall be an amount equivalent to the cost of the educational program that would have been provided for the student in the resident school district. Although the scholarship amount is a function of a student's Individualized Education Plan, the participating school is not required to abide by the Individualized Education Plan. The parent and the participating school will mutually determine the best services and educational plan for the student.⁵
- (E) The amount of the Special Needs Scholarship shall be the lesser of the amount calculated in Section 3(C) and (D) or the amount of the participating school's estimated costs for serving the student. The costs of any assessment by the participating school of the student's special needs may be included in the scholarship amount.
- (F) A participating students shall be counted in the enrollment of his or her resident school district. The funds needed to provide a scholarship shall be subtracted from the state school aid payable to the student's resident school district.⁶
- (G) The Special Needs Scholarship shall remain in force until the student returns to a public school or graduates from high school or reaches his or her 21st birthday, whichever comes first.
- (H) At any time, the student's parent may remove the student from the participating school and place the student in another participating school or in a public school.
- (I) A participating school may not refund, rebate, or share a student's scholarship with a parent or the student in any manner. A student's scholarship may only be used for educational purposes.⁷

Section 4. {Responsibilities of Resident School Districts}

- (A) A resident school district shall annually notify the parents of a student with special needs of the Special Needs Scholarship Program and offer that student's parent an opportunity to enroll the student in a participating school of their choice.

(B) The resident school district shall provide a participating school that has admitted an eligible student under this program with a complete copy of the student's school records, while complying with the Family Educational Rights and Privacy Act of 1974 (20 USC 1232g).

(C) The resident school district shall provide transportation for an eligible student to and from the participating school under the same conditions as the resident school district is required to provide transportation for other resident students to private schools as per current law. The resident school district will qualify for state transportation aid for each student so transported.

(D) The public school district in which the eligible student participating in this program resides shall count the pupil in its enrollment for state aid purposes.

(E) If the parent of an eligible student participating in this program requests that the student take the statewide assessments, the resident school district shall provide locations and times for the student to take all statewide assessments if they are not offered at the student's participating school.⁸

Section 5. {Responsibilities of the Department of Public Instruction}

(A) The Department shall adopt rules and procedures regarding:

- (1) the eligibility and participation of private schools, including timelines that will maximize student and public and private school participation;
- (2) the calculation and distribution of scholarships to eligible students and participating schools;⁹ and
- (3) the application and approval procedures for eligible students and participating schools.

(B) No liability shall arise on the part of the Department or the state based on the award or use of a Special Needs Scholarship.

(C) The Department may bar a school from participation in the program if the Department establishes that the participating school has:¹⁰

- (1) intentionally and substantially misrepresented information required under Section 6;
- (2) routinely failed to comply with the accountability standards established in Section 6;
- (3) failed to comply with Section 3(I); or

(4) failed to refund to the state any scholarship overpayments in a timely manner.

(D) If the Department decides to bar a participating school from the program, it shall notify eligible students and their parents of this decision as quickly as possible. Participating students attending a school barred by the Department shall retain scholarship program eligibility to attend another participating school.

Section 6. {Accountability Standards for Participating Schools}

(A) Administrative Accountability Standards. To ensure that students are treated fairly and kept safe, all participating, private schools shall:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;¹¹ and

(4) conduct criminal background checks on employees. The participating school then shall:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.¹²

(B) Financial Accountability Standards. To ensure that public funds are spent appropriately, all participating, private schools shall:

(1) Demonstrate their financial accountability by:

(a) annually submitting to the Department a financial information report for the school that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant;¹³ and

(b) Having an auditor certify the report is free of material misstatements and fairly represents the costs per pupil. The auditor's report shall be limited in scope to those records that are necessary for the Department to make payments to participating schools on behalf of parents for Special Needs Scholarships.

(2) Demonstrate their financial viability by showing they can repay any funds that might be owed the state, if they are to receive \$50,000 or more during the school year, by: ¹⁴

(a) filing with the Department prior to the start of the school year a surety bond payable to the state in an amount equal to the aggregate amount of the Special Needs Scholarships expected to be paid during the school year to students admitted to the participating school; or

(b) filing with the Department prior to the start of the school year financial information that demonstrates the school has the ability to pay an aggregate amount equal to the amount of the Special Needs Scholarships expected to be paid during the school year to students admitted to the participating school.

(C) Academic Accountability Standards. To ensure that schools provide academic accountability to parents of the students in the program, all participating schools shall regularly report to the parent on the student's progress and ensure that the person providing special education or related services holds the appropriate license issued by the Department. ¹⁵

(D) Participating School Autonomy. A participating, private school is autonomous and not an agent of the state or federal government and therefore:

(1) the Department or any other state agency may not in any way regulate the educational program of a participating, private school that accepts a Special Needs Scholarship;

(2) the creation of the Special Needs Scholarship Program does not expand the regulatory authority of the state, its officers, or any school district to impose any additional regulation of private schools beyond those reasonably necessary to enforce the requirements of the program; and

(3) participating, private schools shall be given the maximum freedom to provide for the educational needs of their students without governmental control.

Section 7. {Responsibilities of Scholarship Students and Parents}

(A) It shall be the responsibility of a parent to select their child's school, apply for admission, and apply for a Special Needs Scholarship.

(B) Any student participating in the program must comply fully with a participating school's written code of conduct and shall remain in attendance throughout the school year, unless excused by the school for illness or other good cause. However, a parent may transfer an eligible student to a public school or another participating school at any time.

The scholarship amount shall be prorated between participating schools according to the period of attendance at each school.

(C) A parent's decision for their student to participate in the program constitutes a private placement for purposes of the Individuals with Disabilities Education Act.

Section 8. {Evaluation of the Special Needs Scholarship Program}¹⁶

(A) The legislative service agency may contract with one or more qualified researchers who have previous experience evaluating school choice programs to conduct a study of the program with funds other than state funds.

(B) The study shall assess:

- (1) the level of participating students' satisfaction with the program;
- (2) the level of parental satisfaction with the program;
- (3) the percentage of participating students who were victimized¹⁷ because of their special needs status at their resident school district compared with the percentage so victimized at their participating school;
- (4) the percentage of participating students who exhibited behavioral problems at their resident school district compared with the percentage exhibiting behavioral problems at their participating school;
- (5) the class size experienced by participating students at their resident school district and at their participating school; and
- (6) the fiscal impact to the state and resident school districts of the program.

(C) The researchers who conduct the study shall:

- (1) apply appropriate analytical and behavioral science methodologies to ensure public confidence in the study;
- (2) protect the identity of participating schools and students by, among other things, keeping anonymous all disaggregated data other than that for the categories of grade level, gender, and race and ethnicity; and
- (3) provide the legislature with a final copy of the evaluation of the program.

(D) The relevant public and private participating schools from which students transfer to participate in the program shall cooperate with the research effort by providing student assessment results and any other data necessary to complete this study.

(E) The legislative service agency may accept grants to assist in funding this study.

(F) The legislature may require periodic reports from the researchers. The researchers must make their data and methodology available for public review while complying with the requirements of the Family Educational Rights and Privacy Act (20 USC Section 1232g).

Section 9. {Effective Date} The Special Needs Scholarship Program will be in effect beginning with the fall semester of the next school year.

Chapter 5: The Great Schools Tax Credit Program Act

Note: This chapter mirrors the *Great Schools Tax Credit Program Act*, adopted by the Education Task Force on December 4, 2004 amended on July 16, 2009, and approved by the ALEC Board of Directors on August 27, 2009, with one minor revision in Section 4(A)(6) – see drafting notes for details.

Section 1. {Title} The Great Schools Tax Credit Program Act

Section 2. {Definitions}

(A) “Program” means the Great Schools Tax Credit Program.

(B) “Eligible student” means a student who:

(1) is a member of a household whose total annual income the year before he or she receives an educational scholarship under this program does not exceed the income standard used to qualify for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq. Once a student receives a scholarship under this program, the student will remain eligible regardless of household income until the student graduates high school or reaches 21 years of age;¹

(2) was eligible to attend a public school in the preceding semester or is starting school in [state] for the first time;²

(3) Resides in [state] while receiving an educational scholarship.

(C) “Low-income student” means a student who qualifies for a free or reduced-price lunch under the national free or reduced-price lunch program established under 42 USC Section 1751 et seq.³

(D) “Parent” includes a guardian, custodian, or other person with authority to act on behalf of the child.

(E) “Department” means the state Department of Revenue.

(F) “Qualifying school” means either a public school outside of the resident school district, or any private school that provides education to elementary and/or secondary students and has notified the Department of its intention to participate in the program and comply with the program’s requirements.⁴

(G) “Educational scholarships” means grants to students to cover all or part of the tuition and fees at either a qualifying private school or a qualifying public school, including transportation to a public school outside of a student’s resident school district.

(H) “Scholarship Granting Organization” means an organization that complies with the requirements of the state’s school scholarship tax credit program and provides or is approved to provide educational scholarships to students attending qualifying schools of their parents’ choice.

(I) “Test” means either the state achievement test or nationally recognized norm-referenced test chosen by the participating school.

Section 3. {Basic Elements of the Great Schools Tax Credit Program}

(A) A taxpayer who files a state income tax return and is not a dependent of another taxpayer may claim a credit for a contribution made to a scholarship granting organization.

(B) The tax credit may be claimed by an individual taxpayer or a married couple filing jointly in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 50 percent of the taxpayer’s tax liability.⁵

(C) The tax credit may be claimed by a corporate taxpayer in an amount equal to the total contributions made to a scholarship granting organization for educational scholarships during the taxable year for which the credit is claimed up to 50 percent of the taxpayer’s tax liability.⁵

(D) A corporate taxpayer, an individual taxpayer, or a married couple filing jointly may carry forward a tax credit under this program for three years.⁶

Section 4. {Responsibilities of Scholarship Granting Organizations}⁷

(A) Administrative Accountability Standards. All scholarship-granting organizations shall:

(1) notify the Department of their intent to provide educational scholarships to students attending qualifying schools;

(2) demonstrate to the Department that they have been granted exemption from the federal income tax as an organization described in Section 501(c)(3) of the Internal Revenue Code;

(3) distribute periodic scholarship payments as checks made out to a student’s parent or guardian and mailed to the qualifying school where the student is enrolled. The parent or guardian must endorse the check before it can be deposited;

(4) provide a Department-approved receipt to taxpayers for contributions made to the organization;

(5) ensure that at least 90 percent of their revenue from donations is spent on educational scholarships, and that all revenue from interest or investments is spent on educational scholarships;

(6) ensures that the maximum scholarship shall be no more than 80% of the total average local and state aid provided for children in district schools.²⁰

(7) ensure that at least X percent of first-time recipients of educational scholarships were not continuously enrolled in a private school during the previous year;⁹

(8) cooperate with the Department to conduct criminal background checks on all of their employees and board members and exclude from employment or governance any individual(s) that might reasonably pose a risk to the appropriate use of contributed funds;¹⁰

(9) ensure that scholarships are portable during the school year and can be used at any qualifying school that accepts the eligible student according to a parent's wishes. If a student moves to a new qualifying school during a school year, the scholarship amount may be prorated.

(10) publicly report to the Department by June 1 of each year the following information prepared by a certified public accountant regarding their grants in the previous calendar year:

(a) the name and address of the student support organization;

(b) the total number and total dollar amount of contributions received during the previous calendar year; and

(c) the total number and total dollar amount of educational scholarships awarded during the previous calendar year, the total number and total dollar amount of educational scholarships awarded during the previous year to students qualifying for the federal free and reduced-price lunch program,¹¹ and the percentage of first-time recipients of educational scholarships who were enrolled in a public school during the previous year.

(11) ensure scholarships are not provided for students to attend a school with paid staff or board members, or relatives thereof, in common with the scholarship granting organization.

(B) Financial Accountability Standards.¹²

(1) All scholarship-granting organizations shall demonstrate their financial accountability by:

(a) annually submitting to the Department a financial information report for the organization that complies with uniform financial accounting standards established by the Department and conducted by a certified public accountant; and

(b) having the auditor certify that the report is free of material misstatements.

(2) All participating private schools shall demonstrate financial viability, if they are to receive donations of \$50,000 or more during the school year, by:

(a) filing with the scholarship granting organization prior to the start of the school year a surety bond payable to the scholarship granting organization in an amount equal to the aggregate amount of contributions expected to be received during the school year; or

(b) filing with the scholarship granting organization prior to the start of the school year financial information that demonstrates the financial viability of the participating school.

Section 5. {Program Oversight of Participating Schools}

(A) Each scholarship granting organization shall collect written verification from participating, private schools that accept its scholarship students that those schools:

(1) comply with all health and safety laws or codes that apply to private schools;

(2) hold a valid occupancy permit if required by their municipality;

(3) certify that they comply with the nondiscrimination policies set forth in 42 USC 1981;¹³ and

(4) conduct criminal background checks on employees and then:

(a) exclude from employment any people not permitted by state law to work in a private school; and

(b) exclude from employment any people that might reasonably pose a threat to the safety of students.¹⁴

(B) Academic Accountability Standards. There must be sufficient information about the academic impact scholarship tax credits have on participating students in order to allow parents and taxpayers to measure the achievements of the program, and therefore:

(1) each scholarship granting organization shall ensure that participating schools that accept its scholarship shall:¹⁵

(a) annually administer either the state achievement tests or nationally recognized norm-referenced tests that measure learning gains in math and language arts to all participating students in grades that require testing under the state's accountability testing laws for public schools;

(b) allow costs of the testing requirements to be covered by the scholarships distributed by the scholarship granting organizations;

(c) provide the parents of each student who was tested with a copy of the results of the tests on an annual basis, beginning with the first year of testing;

(d) provide the test results to the Department or an organization chosen by the state¹⁶ on an annual basis, beginning with the first year of testing;

(e) report student information that would allow state to aggregate data by grade level, gender, family income level, and race; and

(f) provide graduation rates of participating students to the Department or an organization chosen by the state in a manner consistent with nationally recognized standards.

(2) the Department or an organization chosen by the state shall:

(a) ensure compliance with all student privacy laws;

(b) collect all test results; and

(c) provide the test results and associated learning gains to the public via a state Web site after the third year of test and test-related data collection.¹⁷ The findings shall be aggregated by the students' grade level, gender, family income level, number of years of participation in the scholarship program, and race.¹⁸

Section 6. {Responsibilities of the Department of Revenue}

(A) The Department shall adopt rules and procedures consistent with this act as necessary to implement the program.

(B) The Department shall provide a standardized format for a receipt to be issued by a scholarship granting organization to a taxpayer to indicate the value of a contribution

received. The Department shall require a taxpayer to provide a copy of this receipt when claiming the Great Schools Tax Credit.

(C) The Department shall provide a standardized format for a scholarship granting organizations to report the information in Section 4(A)(10) above.

(D) The Department shall have the authority to conduct either a financial review or audit of a scholarship granting organization if possessing evidence of fraud.

(E) The Department may bar a scholarship granting organization from participating in the program if the Department establishes that the scholarship granting organization has intentionally and substantially failed to comply with the requirements in Section 4 or Section 5.

(F) If the Department decides to bar a scholarship granting organization from the program, it shall notify affected scholarship students and their parents of this decision as quickly as possible.

(G) The Department shall allow a taxpayer to divert a prorated amount of state income tax withholdings to a scholarship granting organization of the taxpayer's choice up to the maximum credit allowed by law, including carry-over credits. The Department shall have the authority to develop a procedure to facilitate this process.¹⁹

Section 7. {Responsibilities of Qualifying Schools}

(A) All qualified schools shall be required to operate in [state].

(B) All qualifying schools shall comply with all state laws that apply to private schools regarding criminal background checks for employees and exclude from employment any people not permitted by state law to work in a private school.

Section 8. {Effective Date} The Great Schools Tax Credit may be first claimed in the next calendar year.

Chapter 6: The Alternative Teacher Certification Act

Note: This chapter precisely mirrors the Alternative Certification Act. The ALEC Education Task Force adopted this model bill at the States and Nation Policy Summit December, 2005, and the ALEC Board of Directors approved it in January, 2006.

Section 1. {Short Title} This act may be cited as the Alternative Teacher Certification Act.

Section 2. Be it enacted by the legislature that the Education Code, relating to the authority of the state to certify persons to teach who are not graduates of teacher education programs, is amended by adding [section] to read as follows:

(A) Certificates of license to teach in the public schools of the state shall be granted as follows:

- (1) By the state board, under rules and regulations prescribed by it,
 - (a) Upon the basis of college credit;
 - (b) Upon the basis of examination;
- (2) By the state board, under rules and regulations prescribed by the state board, to any individual who presents to the state board a valid doctoral degree from an accredited institution of higher education accredited by a regional accrediting association. Such certificate shall be limited to the major area of postgraduate study of the holder;
- (3) By the state board, under rules and regulations prescribed by it, on the basis of a national level or regional certification which has been validated in the individual's endorsement area and earned by passing a national or regional examination designed to assess the individual's skills in the area in which the individual seeks certification.
- (4) By the state board, upon an appropriate background check, to any person who possesses a valid teaching certificate from another state or certification as contemplated under subdivision three (3); provided that the certificate holder shall annually complete the state board's requirements for such level of certification.

(B) The board shall issue a master teacher certificate in the appropriate area of endorsement to an applicant who meets the requirements for education and experience as set forth in [section] and demonstrates quality teaching. Any teacher who holds national level certification shall be deemed to have satisfied the requirements for master teachers.

(C) Upon completion of a comprehensive mentoring program and satisfactory principal recommendations during the initial year of teaching, the individual may progress to the next level of certification.

Section 3. {Severability clause}

Section 4. {Repealer clause}

Section 5. {Effective date}

Chapter 7: Social Promotion Ban

Section 1. {Title} The Reading is Fundamental Literacy Program

Section 2. {Intent} It is the intent of the Legislature that each student's progression to be determined, in part, upon proficiency in reading; that district school board policies facilitate such proficiency; and that each student and his or her parent be informed of that student's academic progress.

(A) "Reading Deficiency and Parental Notification" — It is the ultimate goal of the Legislature that every student read at or above grade level. Any student who exhibits a substantial deficiency in reading, based upon locally determined or statewide assessments conducted in kindergarten or grade 1, grade 2, or grade 3, or through teacher observations, must be given intensive reading instruction immediately following the identification of the reading deficiency.

(B) Each student's reading proficiency must be reassessed by locally determined assessments or through teacher observations at the beginning of the grade following the intensive reading instruction. The student must continue to be provided with intensive reading instruction until the reading deficiency is remedied.

(C) Beginning with the 20XX-20XY school year, if the student's reading deficiency, as identified in paragraph (a), is not remedied by the end of grade 3, as demonstrated by scoring at Level 2 or higher on the statewide assessment test in reading for grade 3, the student must be retained.

(D) The parent of any student who exhibits a substantial deficiency in reading must be notified in writing of the following:

- (1) That his or her child has been identified as having a substantial deficiency in reading.
- (2) A description of the current services that are provided to the child.
- (3) A description of the proposed supplemental instructional services and supports that will be provided to the child that are designed to remediate the identified area of reading deficiency.
- (4) That if the child's reading deficiency is not remediated by the end of grade 3, the child must be retained unless he or she is exempt from mandatory retention for good cause.
- (5) Strategies for parents to use in helping their child succeed in reading proficiency.

- (6) That the state accountability exam is not the sole determiner of promotion and that additional evaluations, portfolio reviews, and assessments are available.
- (7) The district's specific criteria and policies for midyear promotion. Midyear promotion means promotion of a retained student at any time during the year of retention once the student has demonstrated ability to read at grade level.
- (E) Elimination of social promotion — No student may be assigned to a grade level based solely on age or other factors that constitute social promotion.
- (F) Good Cause Exemptions — The district school board may only exempt students from mandatory retention for good cause. Good cause exemptions shall be limited to the following:
- (1) Limited English proficient students who have had less than 2 years of instruction in an English Language Learner program.
 - (2) Students with disabilities whose individual education plan indicates that participation in the statewide assessment program is not appropriate, consistent with state law.
 - (3) Students who demonstrate an acceptable level of performance on an alternative standardized reading assessment approved by the State Board of Education.
 - (4) Students who demonstrate, through a student portfolio, that the student is reading on grade level as evidenced by demonstration of mastery of the state standards beyond the retention level.
 - (5) Students with disabilities who participate in the state accountability examination and who have an individual education plan or a Section 504 plan that reflects that the student has received intensive remediation in reading for more than 2 years but still demonstrates a deficiency in reading and was previously retained in kindergarten, grade 1, grade 2, or grade 3.
 - (6) Students who have received intensive remediation in reading for two or more years but still demonstrate a deficiency in reading and who were previously retained in kindergarten, grade 1, grade 2, or grade 3 for a total of 2 years. Intensive reading instruction for students so promoted must include an altered instructional day that includes specialized diagnostic information and specific reading strategies for each student. The district school board shall assist schools and teachers to implement reading strategies that research has shown to be successful in improving reading among low-performing readers.
 - (7) Requests for good cause exemptions for students from the mandatory retention requirement shall be made consistent with the following:

(a) Documentation shall be submitted from the student's teacher to the school principal that indicates that the promotion of the student is appropriate and is based upon the student's academic record. In order to minimize paperwork requirements, such documentation shall consist only of the existing progress monitoring plan, individual educational plan, if applicable, report card, or student portfolio.

(b) The school principal shall review and discuss such recommendation with the teacher and make the determination as to whether the student should be promoted or retained. If the school principal determines that the student should be promoted, the school principal shall make such recommendation in writing to the district school superintendent. The district school superintendent shall accept or reject the school principal's recommendation in writing.

(G) Successful progression for retained readers — Students retained must be provided intensive interventions in reading to ameliorate the student's specific reading deficiency, as identified by a valid and reliable diagnostic assessment. This intensive intervention must include effective instructional strategies, participation in the school district's summer reading camp, and appropriate teaching methodologies necessary to assist those students in becoming successful readers, able to read at or above grade level, and ready for promotion to the next grade.

(1) Beginning with the 20XX-20XX school year, each school district shall:

(a) Conduct a review of student progress monitoring plans for all students who did not score above Level 1 on the reading portion of state exam and did not meet the criteria for one of the good cause exemptions. The review shall address additional supports and services, as described in this subsection, needed to remediate the identified areas of reading deficiency. The school district shall require a student portfolio to be completed for each such student.

(b) Provide students who are retained with intensive instructional services and supports to remediate the identified areas of reading deficiency, including a minimum of 90 minutes of daily, uninterrupted, scientifically research-based reading instruction and other strategies prescribed by the school district, which may include, but are not limited to:

(i) Small group instruction.

(ii) Reduced teacher-student ratios.

(iii) More frequent progress monitoring.

(iv) Tutoring or mentoring.

(v) Transition classes containing 3rd and 4th grade students.

(vi) Extended school day, week, or year.

(vii) Summer reading camps.

(c) Provide written notification to the parent of any student who is retained that his or her child has not met the proficiency level required for promotion and the reasons the child is not eligible for a good cause exemption. The notification must include a description of proposed interventions and supports that will be provided to the child to remediate the identified areas of reading deficiency.

(d) Implement a policy for the midyear promotion of any student retained who can demonstrate that he or she is a successful and independent reader, reading at or above grade level, and ready to be promoted to grade 4. Tools that school districts may use in reevaluating any student retained may include subsequent assessments, alternative assessments, and portfolio reviews, in accordance with rules of the State Board of Education. Students promoted during the school year after November 1 must demonstrate proficiency above that required to score at Level 2 on the grade 3 state accountability exam, as determined by the State Board of Education. The State Board of Education shall adopt standards that provide a reasonable expectation that the student's progress is sufficient to master appropriate 4th grade level reading skills.

(2) Provide students who are retained with a high-performing teacher as determined by student performance data and above-satisfactory performance appraisals.

(3) In addition to required reading enhancement and acceleration strategies, provide parents of students to be retained with at least one of the following instructional options:

(a) Supplemental tutoring in scientifically research-based reading services in addition to the regular reading block, including tutoring before and/or after school.

(b) A "Read at Home" plan outlined in a parental contract, including participation in "Families Building Better Readers Workshops" and regular parent-guided home reading.

(c) A mentor or tutor with specialized reading training.

(4) Establish a Reading Enhancement and Acceleration Development (READ) Initiative. The focus of the READ Initiative shall be to prevent the retention of grade 3 students and to offer intensive accelerated reading instruction to grade 3 students who failed to meet standards for promotion to grade 4 and to each K-3 student who is assessed as exhibiting a reading deficiency. The READ Initiative shall:

(a) Be provided to all K-3 students at risk of retention as identified by the statewide assessment system used in Reading First schools. The assessment must measure phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(b) Be provided during regular school hours in addition to the regular reading instruction.

(c) Provide a state-identified reading curriculum that, at a minimum, the following specifications:

(i) Assists students assessed as exhibiting a reading deficiency in developing the ability to read at grade level.

(ii) Provides skill development in phonemic awareness, phonics, fluency, vocabulary, and comprehension.

(iii) Provides scientifically based and reliable assessment.

(iv) Provides initial and ongoing analysis of each student's reading progress.

(v) Is implemented during regular school hours.

(vi) Provides a curriculum in core academic subjects to assist the student in maintaining or meeting proficiency levels for the appropriate grade in all academic subjects.

(vii) Establish at each school, where applicable, an Intensive Acceleration Class for retained grade 3 students who subsequently score at Level 1 on the reading portion of the state accountability exam. The focus of the Intensive Acceleration Class shall be to increase a child's reading level at least two grade levels in 1 school year. The Intensive Acceleration Class shall:

(a) Be provided to any student in grade 3 who scores at Level 1 on the reading portion of the state accountability exam and who was retained in grade 3 the prior year

because of scoring at Level 1 on the reading portion of the state accountability exam.

(b) Have a reduced teacher-student ratio.

(c) Provide uninterrupted reading instruction for the majority of student contact time each day and incorporate opportunities to master the grade 4 state standards in other core subject areas.

(d) Use a reading program that is scientifically research-based and has proven results in accelerating student reading achievement within the same school year.

(e) Provide intensive language and vocabulary instruction using a scientifically research-based program, including use of a speech-language therapist.

(f) Include weekly progress monitoring measures to ensure progress is being made.

(g) Report to the Department of Education, in the manner described by the department, the progress of students in the class at the end of the first semester.

(viii) Report to the State Board of Education, as requested, on the specific intensive reading interventions and supports implemented at the school district level. The Commissioner of Education shall annually prescribe the required components of requested reports.

(ix) Provide a student who has been retained in grade 3 and has received intensive instructional services but is still not ready for grade promotion, as determined by the school district, the option of being placed in a transitional instructional setting. Such setting shall specifically be designed to produce learning gains sufficient to meet grade 4 performance standards while continuing to remediate the areas of reading deficiency.

(H) Annual report — In addition to the above requirements, each district school board must annually report to the parent of each student the progress of the student toward achieving state and district expectations for proficiency in reading, writing, science, and mathematics. The district school board must report to the parent the student's results on each statewide assessment test. The evaluation of each student's progress must be based upon the student's classroom work, observations, tests, district and state assessments, and other relevant information. Progress reporting must be provided to the parent in writing in a format adopted by the district school board.

(1) Each district school board must annually publish in the local newspaper, and report in writing to the State Board of Education by September 1 of each year, the following information on the prior school year:

(a) The provisions of this section relating to public school student progression and the district school board's policies and procedures on student retention and promotion.

(b) By grade, the number and percentage of all students in grades 3 through 10 performing at Levels 1 and 2 on the reading portion of the [state assessment].

(c) By grade, the number and percentage of all students retained in grades 3 through 10.

(d) Information on the total number of students who were promoted for good cause, by each category of good cause as specified above.

(e) Any revisions to the district school board's policy on student retention and promotion from the prior year.

(2) The Department of Education shall establish a uniform format for school districts to report the information required. The format shall be developed with input from district school boards and shall be provided not later than 90 days prior to the annual due date. The department shall annually compile the information required along with state-level summary information, and report such information to the public, Governor, the President of the Senate, and the Speaker of the House of Representatives.

(I) State Board Authority and Responsibilities —

(1) The State Board of Education shall have authority to enforce this chapter.

(2) The department shall provide technical assistance as needed to aid district school boards in administering this section.

Chapter 8. School and Teacher Bonuses for Advanced Placement Exam Success

Section 1. {Title} The AP Success Bonus Plan

Section 2. Calculation of additional full-time equivalent membership based on College Board advanced placement scores of students.

(A) A value of 0.X full-time equivalent student membership shall be calculated for each student in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination for the prior year and added to the total full-time equivalent student membership in basic programs for grades 9 through 12 in the subsequent fiscal year.

(1) Each district must allocate at least 80 percent of the funds provided to the district for advanced placement instruction, in accordance with this paragraph, to the high school that generates the funds.

(B) Teacher Bonuses. The school district shall distribute to each classroom teacher who provided advanced placement instruction:

(1) A bonus in the amount of \$50 for each student taught by the Advanced Placement teacher in each advanced placement course who receives a score of 3 or higher on the College Board Advanced Placement Examination.

(2) An additional bonus of \$500 to each Advanced Placement teacher in a school designated with a grade of “D” or “F” who has at least one student scoring 3 or higher on the College Board Advanced Placement Examination, regardless of the number of classes taught or of the number of students scoring a 3 or higher on the College Board Advanced Placement Examination.

(3) Bonuses awarded to a teacher according to this paragraph shall not exceed \$2,000 in any given school year and shall be in addition to any regular wage or other bonus the teacher received or is scheduled to receive.

(C) Annual Appropriation — The additional full-time equivalent membership authorized under this paragraph may not exceed 0.X per student. Unless a different amount is specified in the General Appropriations Act, the appropriation for this calculation is limited to \$XX million annually. If the appropriation is insufficient to fully fund the total calculation, the appropriation shall be prorated.

Background and Drafting Notes

Context and Overview

In passing their comprehensive, linked reforms beginning in 1999, Florida lawmakers embraced a comprehensive, multifaceted approach to improving academic achievement focused on early childhood literacy as the gateway to learning.

The central Florida reform involved increasing transparency: assigning all schools and districts a letter grade of A, B, C, D, or F. The other reform elements combined to spur improvement as well. Parental choice programs for children attending failing schools, low-income students and children with disabilities gave potential exit power for the least advantaged children. A strong charter school law and virtual education statutes provide universally available options. Florida embraced far-reaching alternative teacher certification paths to improve teacher quality, and curtailed the social promotion of children.

Florida lawmakers have continued to update their reforms over time. Those interested in the latest policy innovations in Florida can contact the Foundation for Excellence in Education. The Foundation can assist with technical issues, provide sample rules created by the Florida State Board of Education and other assistance.

Chapter 1. School and District Report Cards and Grades

Florida's School Report Card system assigns all schools and districts a letter grade based upon an elegant but powerful formula grading schools one half on overall scores, one quarter on the gains of all students, one quarter on the gains of the bottom quarter of students.

People instantly and intuitively understand letter grades, and this system served as the lynchpin for the reforms by increasing community support and interest in improving schools.

Chapter 2. School Recognition Program

The Florida school grading system created both incentives for improvement (cash bonuses for schools) and the chance for parents to remove their children from failing schools (Opportunity Scholarships).

In the current economic climate, it may prove challenging for states to provide additional funding for school improvement. Furthermore, many legislators may justifiably believe that their states already provide too much funding to district schools already.

If however your state can successfully establish a rigorous A-F grading system, at that point you may want to condition a large portion of any future funding increases through the recognition program. Rather than sending more money into the system for largely the same results, as has been common, school districts can earn additional funding.

Chapter 3. Opportunity Scholarship Program.

Policymakers might want to consider a less forgiving standard than two “F” grades in any four year period. Making any school having scored one “F” grade in any four period may merit consideration.

Chapter 4: Special Needs Scholarships

These notes are intended to provide guidance to legislators on some of the key policy questions they will encounter in drafting and debating school choice legislation.

Please note: Most states that have passed a special needs scholarship program have chosen to name the program after a child with special needs or an advocate for such children.

1. The definition for an eligible student in this model legislation includes all special needs students living in the state and initially enrolled in a public school regardless of their household income. Because the scholarship amount is based upon the cost of the Individualized Education Plan developed at the resident public school, the authors chose not to make students presently attending private schools eligible for the program. As a result, there may be a savings for the taxpayers when eligibility is so limited because a scholarship covering private school costs will often be less than the costs of state and local support provided to special needs students attending a public school. Given the likely savings, legislators could extend scholarships to some special needs students already attending private schools without increasing state spending. States may also want to consider whether or not to include gifted students in the program.

2. This bill designates the Department of Public Instruction as the agency regulating the Special Needs Scholarship Program. The intent was to name the existing agency in the state that is responsible for public school finances and private school regulation. Alternatively, legislators may choose to create a new small agency to oversee the program if they are concerned about the hostility the program would face from the existing state education department.

3. This model legislation allows students with special needs to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child’s special needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has some form of public school choice for students with special needs, then this legislation should be made compatible with the existing program. In fact, if a state already has a broad array of

school choice options available to parents of special needs children, then a state may be able to add an option for just private schools without encountering constitutional questions.

4. This model legislation empowers parents solely to determine whether their child's needs are being met by his or her existing public school and whether their child should be transferred to another public or private school. The authors believe deeply that this determination should reside with the parents and not the Department, the school district, or some panel of educators. These government agencies have a financial stake in the decision and will be reluctant to approve the transfer of a student with special needs to another public or private school. By placing the determination in the hands of the parent, this approach ensures that the person making the decision is the one with the greatest interest in the child's progress, avoids expensive and unproductive legal battles, and forces the resident public schools to meet the needs of these children or lose them to another public or private school.

5. This model legislation bases the scholarship amount on the amount that would have been spent on the student under their Individualized Education Plan at the resident school district. It is important that the new public or private school selected by the parents not be required to follow the Individualized Education Plan crafted at the resident public school since that school disappointed the parent. The new school should be free to craft a better plan to meet the student's special needs, even though the scholarship amount will be based upon the old plan.

6. Optimally, a scholarship should equal the federal, state, and local dollars that would have been available for the child at his or her resident public school. Unfortunately, tapping federal dollars will bring some unwanted federal regulations to choice schools. As a result, few private schools would be willing to participate in the program. Similarly, legislators should be aware that using local dollars may violate the state constitution in some places (such as Colorado) and may be politically unviable in other states. Therefore, this legislation draws the funds for scholarships solely from state funds and then subtracts the costs from the state aid paid to the resident school district that has not met the student's needs. This will have the helpful side effect of reducing the financial incentive for resident school districts to over-identify or overspend on special students with special needs.

7. This model legislation is silent about whether schools can charge students with special needs tuition and fees in excess of the scholarship amount. Allowing this would encourage greater participation by schools where costs exceed the scholarship amount. Some also believe direct payments from parents would encourage stronger ownership and involvement in their children's education. However, legislators may wish to place a cap on the tuition and fees that a poor student might be charged to ensure that all families can afford to participate in the program. Regardless, legislators should make sure that the amount of the scholarship plus the tuition and fees charged to the student do not exceed the school's costs for educating a student. Any payments above cost to a religious private school would be considered an impermissible subsidy of religion.

8. The model legislation allows parents to request that their child be given the statewide assessments so that they can mark their child's progress. The legislation does not require testing of students with special needs.

9. It is important that the Department calculate the scholarship in strict accordance with the definitions in the legislation. If the Department cannot be trusted to do this objectively, a more detailed description for determining the size of the scholarship should be written into the law.

10. The legislature may wish to develop an appeals process for schools that have been barred from the program for violations of Section 5(C).

11. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability). If you choose to include language banning discrimination in hiring based on race, color, national origin, or disability, take care not to interfere with the ability of religious institutions to hire individuals who share their religious beliefs.

12. The model legislation provides schools with the tools they need to ensure that students will be safe. The schools are required to conduct criminal background checks on existing and potential employees, and then they are given the flexibility to determine from this information whether the employee might pose a risk to students. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks and the power to exclude potential risks from the school.

13. The purpose of the financial information report is to make sure that the Department can ascertain the costs of educating a student at the school and to ensure public funds are used appropriately. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for many private schools.

14. The model legislation provides for two methods for schools to demonstrate financial viability to ensure that public funds are secure. The first method employs a market-based means of demonstrating viability. Private companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed the state. They will therefore conduct the checks necessary to protect their financial interest as well as the taxpayers' financial interests. Surety bonds can be expensive (one

to three percent of the amount covered) or invasive for some institutions so the legislation allows schools to demonstrate by some other means that they have the financial wherewithal to pay back any amount they might owe the state. This might include things like personal guarantees, reserve accounts, or escrow accounts.

15. The model legislation does not require that students with special needs take standardized assessments because of the special educational challenges these students face. Instead, the legislation requires the school to regularly report to the parents on the student's progress and it gives the parents the option of having their children take the statewide assessments given to other students.

16. It is crucial that the legislature give this study oversight responsibility to a trusted objective nonpartisan source like a legislative service agency. Unfortunately, a 13-year longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants and another trusted agency will have to be selected. It will be tempting for legislators to further define the details of the study but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

17. Victimization includes but is not limited to being bullied, teased, or threatened with violence.

Additional Note:

It is fairly common for legislators to consider including severability clauses in new legislation. Legislators should make sure that if such clauses are included and exorcised, the remaining legislation produces a program that is workable and achieves the original intent of the bill.

Chapter 5: The Great Schools Tax Credit Program

The Florida legislature created the Step Up for Students Tax Credit against the Corporate Income tax with an initial statewide cap of \$50 million. In subsequent years, lawmakers increased the cap on the credit several times, until in 2010 they created a provision to increase the cap and increase the cap by twenty percent automatically when reached the previous year.

Florida is one of the seven states not utilizing a personal income tax. This limited Florida choice advocates to a corporate income tax. Given this is an exception rather than a rule, and it is highly desirable to create a personal donation credit if possible, this chapter uses ALEC's Great Schools Tax Credit Program Act as a baseline. This act contains other advantages over the Florida legislation as well, such as completely lacking a cap.

The present chapter amends the Great Schools Tax Credit Program in two ways to make it more precisely mimic the Florida Step Up for Students Program. First, the chapter

introduces a means test at Free and Reduced lunch eligibility. Bill sponsors should carefully consider the advantages and disadvantages of such a means test, as discussed in a drafting note below.

Second, the Florida Step Up for Students Program included a maximum scholarship amount. Independent analysis of the Step Up for Students program concluded that it saves the state of Florida hundreds of millions of dollars in addition to providing parental choice. A limitation on the size of the tax credit scholarship may be useful in avoiding ambiguity in the fiscal note process and justifies avoiding a cap.

Following are Drafting Notes to facilitate tailoring this bill for your state.

1. *Special Note:* The eligibility standard for the tax credit program included in this omnibus bill was set at the same level as the Step Up for Students Program in Florida: free and reduced lunch. This was done to accurately reflect the reality and spirit of what Florida's reformers accomplished. Florida's parental choice movement has focused on providing an advantage to the poor, and they have succeeded in building bipartisan support for the program. The original Great Schools Tax Credit bill means tested student eligibility at a higher level of income. Ultimately, this design feature must be decided by the authors of bills, and opinions vary on the best approach.

Original Note from the Great Schools Tax Credit Program Act:

The definition for an eligible student is limited to those children in a household whose annual income does not exceed an amount equal to 2.5 times the income standard used to qualify for the federal free and reduced-price lunch program (FRL). The authors chose this standard for several reasons: 1) the FRL program is familiar to both schools and many parents; 2) the verification procedures are simple and familiar to school administrators; 3) the income guidelines are used for a number of existing state and federal programs; 4) the federal government annually adjusts the income guidelines; and 5) the income guidelines are adjusted for family size.

The authors chose to use a multiple of this familiar income standard to recognize that many low- and middle-income families cannot afford the choice of a private school. Experience suggests that most parents' ability to choose a private school is quite limited until the household income approaches \$75,000 for a family of four. We have chosen a multiple of 2.5 times the FRL standard to reflect this reality. Legislators may wish to use different multiples of this standard but should keep in mind the financial burden many middle-class families face in paying for private schools.

2. The definition for an eligible student in this model legislation includes students presently enrolled in a private school. Drafted this way, the tax credit will necessarily reward many families who are already financing their child's education at a non-resident public school or a private school. For this reason some states with a scholarship tax credit program have chosen to place a cap on the total dollar amount of scholarships eligible for the tax credit. Alternatively, legislators wishing to draft a bill with a more modest fiscal impact may want to limit eligibility to students who attended a public school in the last year or are starting school in their state for the first time. In this case, there may actually

be a savings for state taxpayers since a scholarship covering private school costs in many cases will be less than the cost of state support provided to students attending a public school.

3. This model legislation creates an additional class of eligible students who are from low-income families. Scholarship granting organizations are required to make sure that an appropriate proportion of their scholarship assistance reaches the poorest families in the state (see Section 4 (A)(6)). This ensures that assistance reaches the families who are least able to afford the school of their choice.

4. This model legislation allows students to use a scholarship to attend a public school outside their district as well as a private school. The authors support giving parents the widest possible array of choices so that they can choose the school that best meets their child's needs. Making sure parents can choose either a public or private school is not only the right policy but also the best legal strategy. The U.S. Supreme Court and various state courts have all cited this broad array of choices as an important part of the reason they have found school choice programs constitutional. The courts have reasoned that these scholarship programs are not an inappropriate subsidy of religious institutions because the purpose was secular (the education of children) and the parents were given many options including public schools, charter schools, private secular schools, and private religious schools. If a state already has open enrollment or some other form of public school choice, then this legislation should be made consistent with the existing program. In fact, if a state already has a broad array of school choice options available to parents, then a state may be able to add an option for just private schools without encountering constitutional questions.

5. The bill limits the tax credit an individual, married couple, or corporation can claim to 50 percent of their tax liability. While most states have chosen to implement a dollar cap on the tax credit available to each entity, this methodology is more equitable since it adjusts the cap to treat all taxpayers proportionately the same. The authors chose 50 percent because, in general, states spend about one-half of their income tax receipts on education. Allowing taxpayers to claim a tax credit for more than 50 percent of their liability opens the program up to charges that money is being diverted from non-education programs to support private schools.

6. The bill allows a taxpayer to carry forward any unused tax credits for up to three years. Individual incomes and corporate profits are often quite volatile. As a result, taxpayers may not have a liability against which to claim a credit in certain years. Yet the need for scholarship assistance by a student is likely to be relatively constant. Therefore, it is important to allow taxpayers to carry forward unused tax credits into other tax years to ensure that taxpayers have an incentive to continue to contribute to scholarship granting organizations even in years in which the taxpayer has no tax liability.

7. The model legislation requires the establishment of scholarship granting organizations to protect scholarship recipients, frustrate attempts at fraud, and measure the impact of the program without heavy government regulation of private contributions and private

schools. We prefer rigorous self-regulation by taxpayers and independent regulation of private school participation by SGO's in lieu of intrusive government regulation.

8. The goal of this legislation is to provide every parent with the opportunity to send their child to the school that best meets their child's needs regardless of their family's income. The need for scholarship assistance is obviously greatest among low-income families. This requirement ensures that a proportionate amount of the scholarship assistance is given to the families financially least able to send their child to the school of their choice.

9. The goal of the program is to expand the number of families who can afford to send their children to the school of their choice. Therefore, legislators may wish to require that a certain percentage of the scholarship assistance go to children who were not already in private schools. This will also hold down the costs of the program and increase the efficiency of the financial incentive for expanding choice. This requirement will be particularly important in states that choose to place a total dollar cap on the tax credit program since a limited amount of tax credits could be claimed for scholarship assistance to students previously attending private schools.

10. The purpose of the criminal background checks is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The legislation gives the scholarship granting organizations the responsibility to do background checks, which gives them the power to exclude potential risks from the organization and alleviates liability issues for their employment decisions.

11. Collecting information regarding how many scholarship students qualify for free and reduced-price lunch will give policymakers a sense of the students that are being served by scholarship tax credit programs. These income guidelines are broadly known and already used in private schools.

12. The purpose of the financial information report and the demonstration of financial viability is to protect both the contributors and recipients of scholarship assistance from potential fraud or mismanagement of the funds. The model legislation provides for two methods for participating schools to demonstrate financial viability to ensure that scholarship funds are secure. The first method employs a market-based means of demonstrating viability. Companies that issue surety bonds have a financial interest in making sure that the schools can repay any funds that might be owed to the scholarship granting organization. They will therefore conduct the checks necessary to protect their financial interest as well as the financial interests of the contributors and recipients. Surety bonds can be expensive or invasive for some institutions so the legislation allows these schools to demonstrate by some other means that they have the financial wherewithal to fulfill their scholarship obligations. This might include things like personal guarantees, reserve accounts, or escrow accounts. The legislation does not call for an independent audit because this would be unnecessarily expensive and invasive for these private organizations.

13. Under 42 USC 1981, private schools are already prohibited from discriminating with respect to race, color, and national origin. In addition, if private schools are recipients of federal funds, they are subject to nondiscrimination requirements under 42 USC 2000d (race, color, national origin) and 29 USC 794 (disability).

14. This language is valuable in two cases: 1) a small number of states prohibit discriminating against felons in hiring even for sensitive positions in schools, and this language would give schools clear authority to dismiss or not hire individuals who pose a risk to student safety; and 2) some religious schools see rehabilitation as part of their mission. In this case, the schools could hire someone with a criminal background who they believe is no longer a threat to students, such as someone who committed nonviolent crimes or has decades-old violations followed by a clean record. This language would give schools the responsibility to do background checks, the power to exclude potential risks from the school, and the liability for their employment decisions.

15. The authors believe that empowered parents are the best way to achieve academic accountability. Clear and consistent information about the academic performance of participating students will help empower parents and will also provide the public and policymakers with the information they need to evaluate the effectiveness of the program and participating schools. Therefore, all participating schools should be required to annually administer either the state achievement tests or nationally recognized norm-referenced tests that demonstrate learning gains in math and language arts. Most private schools already administer such norm-referenced tests so this provision should not be seen as burdensome. It is important, however, to give schools the ability to choose between a state test and the nationally recognized test. Many private schools would simply refuse to participate in the program if they were forced to administer the state tests, because it implies that they are no longer independent of the state. The reason many opponents to school choice promote state testing of private schools is, in fact, because they want to discourage school participation and quietly destroy the program.

Participating schools should provide the parents of each student with a copy of the results and should provide the results to the state or an organization chosen by the state, as described in Endnote 16, in a manner that protects the identity and privacy of individual students. The purpose of this testing requirement should be to provide each parent with a measure of their student's progress and to allow the taxpayers to measure the achievements of the program. The number and scope of the tests should be carefully limited to ensure that there is sufficient information to demonstrate the achievements of the program without being so exhaustive or prescriptive as to end up dictating the curriculum at participating schools. If legislators would like an extensive longitudinal study, refer to Endnote 18 and its suggested language to create such a review.

16. If legislators are concerned about the hostility the program would face from the existing state revenue department, they may choose to create a new small agency or contract with a private nonprofit organization to oversee the academic accountability responsibilities of the state. Allowing an organization chosen by the state to oversee this program allows for the flexibility to implement market-based models of academic

accountability. In these cases, test results could be reported to a consumer organization, such as GreatSchools.net, where parents can assess participating schools' test results and compare schools to which they may send their children.

17. The purpose of administering tests is to create transparency in participating students' academic progress and to demonstrate learning gains. These learning gains can only be demonstrated when the public has access to more than one school year. When this information is made public in the first year, the media and opponents often attack school choice programs, noting that participating students are not performing as well as their public school counterparts. This effect is natural because often the students who participate in choice programs are not doing well in public schools and are academically far behind their participating school counterparts, and it will take them a few years to catch up to grade level.

It is important to note that there are multiple ways to achieve the goal of academic accountability in school choice programs. Policymakers must consider the goal of releasing the academic data in order to choose the most effective reporting process. For instance, if the goal is to see how the program is affecting participating students' learning gains, scores of participants statewide should be evaluated and released. If the goal is to evaluate participating school outputs as a tool to help parents choose the best school, scores should be released by participating school. You might also consider a sliding scale approach, where the more participating students a school enrolls, the greater its obligations for transparency and accountability.

18. Legislators sincerely wishing to demonstrate the program's academic success to taxpayers could require a scientific evaluation of the program using the testing data established in Section 5(B). It is crucial that the legislature give the oversight responsibility for this study to a trusted objective nonpartisan source like a legislative service agency or a trusted research university department. We have provided model language for such an independent evaluation of the program in Section X below. The outlined research would evaluate not only whether students who participate in the program are better off but also, more importantly, whether the competition from private schools improves the performance of public schools. The outlined longitudinal study includes a comparison of students in the choice program with a similar cohort in the public schools for at least five years of their education. Unfortunately, a longitudinal study is likely to be quite expensive. Accordingly, the legislation allows the legislature (or a legislative service agency) to accept private grants to completely fund such a study. In some states, the legislature is not allowed to accept such grants, and another trusted agency would have to be selected. It will be tempting for legislators to further define the details of the study, but they should take care not to dictate the methodology or the results in order to maintain the credibility of the research.

19. The legislation allows the Department to establish a mechanism that facilitates regular contributions from a taxpayer's income tax withholdings to a scholarship granting organization in anticipation of the taxpayer claiming a tax credit. This would likely encourage greater contributions to scholarship support organizations.

20. Following is the original language from Section 4(A)(6):

6) spend each year a portion of their expenditures on scholarships for low-income eligible students equal to the percentage of low-income eligible students in the county where the scholarship granting organization expends the majority of its scholarships;

Chapter 6: The Alternative Teacher Certification Act

Teacher quality is crucial to the improvement of instruction and student performance. However, certification requirements that correspond to state-approved education programs in most states prevent many individuals from entering the teaching profession. To obtain an education degree, students must often complete requirements in educational methods, theory, and style rather than in-depth study in a chosen subject area. Comprehensive alternative certification programs improve teacher quality by opening up the profession to well-educated, qualified, and mature individuals. States should enact alternative teacher certification programs to prepare persons with subject area expertise and life experience to become teachers through a demonstration of competency and a comprehensive mentoring program.

Chapter 7: Social Promotion Ban

In 2003, Florida lawmakers took action to curtail the social promotion of children failing to demonstrate basic literacy skill by the end of the 3rd Grade. Specifically, lawmakers required parental notification when children fail to display age appropriate literacy skills and required interventions. When children repeatedly display low levels of literacy skills on examinations, Florida law makes the default for the child to repeat the 3rd grade, absent some good cause exceptions.

The Manhattan Institute conducted a high-quality statistical evaluation of Florida's retention policy, which compared retained students both to students scoring just above the retention threshold, and separately, to those students advancing with an exemption. In both cases, the retained students made greater gains than the two comparison groups after one year, and the gains increased after two years. The bottom line conclusion: retained students learned acquired the literacy skills needed to academically advance, while the comparison groups did not.¹ While retention is a difficult policy, it is important to remember that it is the exempted students, not the retained students, who ultimately suffer.

New York City Chancellor Joel Klein passed a retention policy informed by the Florida reform, which also received a positive evaluation from the RAND Corporation.¹

Florida's retention policy encouraged a greater focus on early literacy development and early intervention. Since the advent of the policy, both the number of students scoring

low enough to be subject to the policy, and the number of students retained, has declined by 40 percent.¹ An ounce of prevention is worth a pound of cure.

Chapter 8. School and Teacher Bonuses for Advanced Placement Exam Success

Florida created a bonus program for schools and teachers as an incentive to get students to pass one or more Advanced Placement Exams. The state created a funding weight increase per student passing one or more Advanced Placement tests with a score high enough to receive college credit. In Florida, the base funding amount equaled \$700 per student passing an AP exam. The state directed funds through the formula and the law required a minimum of 80% of those funds go directly to the schools, rather than to the district.

In addition, the program provides an additional increase in funding for students earning AP credit at a school graded D or F, and specifies that the teacher shall earn a bonus of \$50 up to a maximum of \$2,000 out of the \$700. In the last decade, the number of African Americans and Hispanics passing AP exams in Florida has tripled. Florida has the highest Hispanic AP passing rate in the nation.

Compensation for AP exam success can serve as a paradigm shift by inviting schools to *earn* additional funds, rather than simply receive them.

The model bill leaves funding weight amounts as “X” in order to allow sponsors to vary the amounts based upon individual state circumstances.



The Open Enrollment Act¹

Summary

The Open Enrollment Act stipulates that a student may attend any public school or program in the state. The legislation allows the parents of the student to apply for attendance in any nonresident school, either within or outside the district of residence. The nonresident school would advise the parent within a reasonable time if the application was accepted. No school district can be obligated to change existing school structures or program guidelines. No school can reject an application except for lack of space, existing eligibility criteria, desegregation plan requirements, expulsion record or late enrollment.

Provisions are made for transportation within the nonresident district and, under some circumstances, within the resident district. School districts shall be required to post selected information on their websites concerning schools and the open enrollment process to facilitate informed decisions by parents. Except under certain conditions, students accepted through the open enrollment process are entitled to remain enrolled in the school of choice through the entire school year.

Model Legislation

Section 1. {Purpose.} The Purpose of this Act is to improve educational achievement and to enhance the opportunity for parental choice in education by providing additional options to pupils in the state to enroll in public schools and educational programs throughout the state without regard to pupil residence.

Section 2. {Establishment.} The state educational agency shall establish an enrollment options program to enable pupils residing in the state to attend any public school or program within the district of residence, or any school or program in a nonresident district within the state without requiring nonresident pupils to pay tuition.²

Section 3. {Application procedures.}

(A) The parent or legal guardian of a pupil wishing to attend a nonresident school or program, either within or outside the district of residence, shall submit an application to the nonresident school of choice.³

(B) The parent or legal guardian shall submit the application for a particular school year at a time set and on a form provided by the state educational agency.⁴

(C) Upon agreement of the resident and nonresident districts, the deadlines in Subsection (B) may be waived.⁵

Section 4. {Desegregation plan(s).} A school district that has a desegregation plan approved by the State educational agency, by a court, or by the United States Department of Education, Office of Civil Rights, may, in accordance with regulations of the state educational agency, limit the number of pupils who transfer into (or out of) the district under this Act if necessary to ensure compliance with the plan.

Section 5. {Basis for decision.}

(A) In implementing the provisions of this Act, no school district shall be required to:

- (1) Make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school; or
- (2) Establish and offer any particular program in a school if such program is not currently offered in such school; or
- (3) Alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance; or
- (4) Enroll any student pursuant to this article in any program or school after [annual enrollment count date].⁶

(B) Any school district may deny any of its resident pupils or any nonresident pupils from other school districts within the state permission to enroll in particular programs or schools only for any of the following reasons:

- (1) Lack of space or capacity within a particular program or school requested, in which case, priority shall be given to resident students applying for admission to such program or school.
- (2) The school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of the pupil or does not offer a particular program requested.
- (3) The pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance.
- (4) A desegregation plan is in effect for the school district, and such denial is necessary in order to enable compliance with such desegregation plan.
- (5) The student has been expelled, or is in the process of being expelled, for the reasons specified in [STATUTE CITE]⁷.

Section 6. {Notification.} In implementing the provisions of this Act, a school district shall adopt a policy requiring notification of accepted applicants within a reasonable amount of time of the application being submitted.

Section 7. {Interdistrict transportation.} If requested by the parent of a pupil participating in the program under this Act, the nonresident district shall provide transportation within that district. The parent shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the receiving district.

Section 8. {Graduation.} A district serving a nonresident pupil under this Act shall accept credits toward graduation that were awarded to that pupil by another district and shall graduate a nonresident pupil if the pupil meets the nonresident district's own graduation requirements.

Section 9. {Information.} In order to enable a parent to make an informed decision about enrollment options under this Act, each school district that operates a website shall make open enrollment information as easily available to parents as possible by including the following information on the school district's website:

- (A) One or more web pages that summarize school district open enrollment policies and procedures for interdistrict and intradistrict open enrollment into district schools;
- (B) Information concerning enrollment into district's charter and magnet schools, if different than district schools;
- (C) Information concerning the eligibility of a student to participate in school activities if the student has transferred from one school to another school, either within the school district or within another school district;⁸
- (D) Information concerning the open enrollment application process, including how and where to obtain an application and when and how notification of acceptance occurs;
- (E) Information concerning the student selection process;
- (F) Information concerning open enrollment timelines, including how long an enrollment shall remain valid;
- (G) Contact information for one or more individuals employed by the school district who are responsible for answering questions from parents concerning the open enrollment process; and
- (H) A tab or link on the home page of the school district website that links viewers to open enrollment information, is clearly labeled with language that includes the words "open enrollment" or "school choice," and is available at all times of the year.

Section 10. {Continuing enrollment.}

(A) Except as otherwise provided in subsection (B) of this section, any pupil who enrolls in a nonresident school or program pursuant to this article may remain enrolled in that school or program through the end of the school year.

(B) This section shall not apply if:

(1) The nonresident pupil is expelled pursuant to statute from the school or program;

(2) The nonresident pupil is excluded from the school or program for any of the reasons described in paragraphs (1) to (4) of subsection (A) of Section 5.

Section 11. {Definitions.} As used in this Act:

(A) The term “school” means a school that is operated or authorized by a public school district or other recognized educational agency, and that provides elementary or secondary education in accordance with state law.

(B) “Parent” means the natural or adoptive parent or legal guardian of a dependent child.

Section 12. {Severability clause.}

Section 13. {Repealer clause.}

Section 14. {Effective date.}

1995 Sourcebook of American State Legislation.

Notes

¹ As amended, the Act provides for both intradistrict and interdistrict open enrollment. States may adopt this more comprehensive approach, or may choose one or the other: allowing students to choose any school *within* the resident district, or allowing students to choose any school *outside* the resident district.

² States with stronger “local control” may designate the authority to a school district or local education agency.

³ Preferably, the application should be made at the school level to give students and parents greater access to their preferred educational option. In some states, however, this process may function better at the district level.

⁴ See Note 2. Alternate language may grant the authority to establish the deadline and form to “the resident or nonresident district of choice.” But creating a single standard time frame at the state level makes navigating open enrollment simpler for parents.

⁵ See Note 4. If this authority is granted at the state level rather than the school level, subsection 3 should be eliminated to prevent the sending district from exercising undue power to prevent the free exercise of choice.

⁶ States that provide funding based on average daily attendance or membership may choose a date or eliminate this point under Subsection A.

⁷ Place to cite existing statutes that define causes for expulsion based on ongoing habitually disruptive behavior, various criminal offenses or other activities deemed harmful to the welfare of other students or the effective implementation of the education program.

⁸ In some states, open enrollment without a bona fide family move affects a student's ability to participate in interscholastic athletics and other competitive activities.



The Open Enrollment Act¹

Summary

The Open Enrollment Act stipulates that a student may, ~~with the assistance of the state,~~ attend any public school or program in the state. The legislation allows the parents of the student to apply for attendance in any nonresident school, either within or outside the district of residence. The nonresident school ~~district~~ would advise the parent within ~~an~~ established a reasonable time ~~whether if~~ the application was accepted, or rejected. The ~~nonresident school district would be obligated to adopt standards for consideration of such applications. Acceptance or rejection could not be based on previous academic achievement, athletic activities, physical conditions, proficiency in the English language, gender, national origin or race, unless necessary to ensure compliance with a desegregation plan.~~ No school district can be obligated to change existing school structures or program guidelines. No school can reject an application except for lack of space, existing eligibility criteria, desegregation plan requirements, expulsion record or late enrollment.

Provisions are made for transportation within the nonresident district and, under some circumstances, within the resident district. ~~State aid follows the transferring student from the resident to the nonresident district. State funds are thus used to facilitate the expansion of educational choice available to the student and the parent.~~ School districts shall be required to post selected information on their websites concerning schools and the open enrollment process to facilitate informed decisions by parents. Except under certain conditions, students accepted through the open enrollment process are entitled to remain enrolled in the school of choice through the entire school year.

Model Legislation

Section 1. {Purpose.} The Purpose of this Act is to improve educational achievement and to enhance the opportunity for parental choice in education by providing additional options to pupils in the state to enroll in public schools and educational programs ~~in school districts~~ throughout the state without regard to pupil residence.

Section 2. {Establishment.} The state educational agency shall establish an enrollment options program to enable pupils residing in the state to attend any public schools or program within the district of residence, or any school or program in a nonresident district within the state without requiring nonresident pupils to pay tuition. ~~school districts other than the ones in which they reside.~~²

Section 3. {Application procedures.}

(A) The parent or legal guardian of a pupil wishing to attend ~~a school in~~ a nonresident school or program, district either within or outside the district of residence, shall submit an application to the nonresident ~~district~~ school of choice.³

(B) The parent or legal guardian shall submit the application for a particular school year at a time set and on a form provided by the state educational agency.⁴ ~~The parent may request a particular school.~~

(C) Upon agreement of the resident and nonresident districts, the deadlines in Subsection (B) may be waived.⁵

Section 4. {Desegregation plan(s).} A school district that has a desegregation plan approved by the State educational agency, by a court, or by the United States Department of Education, Office of Civil Rights, may, in accordance with regulations of the state educational agency, limit the number of pupils who transfer into (or out of) the district under this Act if necessary to ensure compliance with the plan.

Section 5. {Basis for decision.}

~~(A) A school district shall adopt specific, written standards for acceptance and rejection of applications under this Act. Standards may include consideration of the capacity of a program, class, grade level, or school building. Subject to Subsection (B), standards may not include consideration of a pupil's previous academic achievement, physical condition, proficiency in the English language, sex, national origin, or race, except where necessary in accordance with Section 4.~~ In implementing the provisions of this Act, no school district shall be required to:

(1) Make alterations in the structure of a requested school or to make alterations to the arrangement or function of rooms within a requested school; or

(2) Establish and offer any particular program in a school if such program is not currently offered in such school; or

(3) Alter or waive any established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance; or

(4) Enroll any student pursuant to this article in any program or school after [annual enrollment count date].⁶

~~(B) In considering an application under this Act, a nonresident school district may apply its usual requirements for admission to a magnet school or a program designed to serve the gifted and talented.~~ Any school district may deny any of its resident pupils or any nonresident pupils from other school districts within the state permission to enroll in particular programs or schools only for any of the following reasons:

(1) Lack of space or capacity within a particular program or school requested, in which case, priority shall be given to resident students applying for admission to such program or school.

(2) The school requested does not offer appropriate programs or is not structured or equipped with the necessary facilities to meet special needs of the pupil or does not offer a particular program requested.

(3) The pupil does not meet the established eligibility criteria for participation in a particular program, including age requirements, course prerequisites, and required levels of performance.

(4) A desegregation plan is in effect for the school district, and such denial is necessary in order to enable compliance with such desegregation plan.

(5) The student has been expelled, or is in the process of being expelled, for the reasons specified in [STATUTE CITE]⁷.

Section 6. {~~Nonresident district procedures~~ Notification.} ~~Within 60 days of receiving an application under Section 3, a nonresident district shall notify the applicant parent and the resident district in writing whether the application has been accepted or rejected. If an application is rejected, the district shall state in the notification the reason(s) for its rejection. In implementing the provisions of this Act, a school district shall adopt a policy requiring notification of accepted applicants within a reasonable amount of time of the application being submitted.~~

Section 7. {Interdistrict transportation.} ~~(A) If requested by the parent of a pupil participating in the program under this Act, the nonresident district shall provide transportation within that district. The parent shall be responsible for transporting the child without reimbursement to and from a point on a regular bus route of the receiving district. The state educational agency shall reimburse the nonresident district for the costs of this transportation.~~

~~(B) A resident district shall reimburse the parent for the costs of transportation from the pupil's residence to the border of the nonresident district if the pupil is from a family whose income is at or below the poverty level as determined by the regulations of the state educational agency. The state educational agency shall reimburse the resident district for the costs of this transportation.~~

Section 8. {Graduation.} A district serving a nonresident pupil under this Act shall accept credits toward graduation that were awarded to that pupil by another district and shall graduate a nonresident pupil if the pupil meets the nonresident district's own graduation requirements.

Section 9. {Information.} In order to enable a parent to make an informed decision about enrollment options under this Act, ~~each school district shall make available information about the district, its schools, programs, policies, and procedures. The state educational agency shall promulgate regulations regarding the information that a district must make available, including objective data on individual school achievement levels and (in the case of secondary schools) drop-out and graduation rates.~~ each school district that operates a website shall make open enrollment information as easily available to parents as possible by including the following information on the school district's website:

(A) One or more web pages that summarize school district open enrollment policies and procedures for interdistrict and intradistrict open enrollment into district schools;

(B) Information concerning enrollment into district's charter and magnet schools, if different than district schools;

(C) Information concerning the eligibility of a student to participate in school activities if the student has transferred from one school to another school, either within the school district or within another school district;⁸

(D) Information concerning the open enrollment application process, including how and where to obtain an application and when and how notification of acceptance occurs;

(E) Information concerning the student selection process;

(F) Information concerning open enrollment timelines, including how long an enrollment shall remain valid;

(G) Contact information for one or more individuals employed by the school district who are responsible for answering questions from parents concerning the open enrollment process; and

(H) A tab or link on the home page of the school district website that links viewers to open enrollment information, is clearly labeled with language that includes the words "open enrollment" or "school choice," and is available at all times of the year.

~~The state educational agency shall promulgate regulations regarding the information that a district must make available, including objective data on individual school achievement levels and (in the case of secondary schools) drop-out and graduation rates.~~

Section 10. {State aid.} ~~The State educational agency shall reallocate state education aid between the resident and the nonresident district, as follows:~~

~~(A) Any state aid that is now allocated on a per pupil basis shall be allocated to the district which a pupil actually attends.~~

~~(B) For each type of state aid not now allocated on a per-pupil basis, the state educational agency shall review the average effects of a single pupil's transfer on the costs which that type of aid is meant to defray for both the resident and the nonresident district. After such review, the state educational agency shall promulgate a formula that results in an equitable allocation to both districts.~~

{Continuing enrollment.}

(A) Except as otherwise provided in subsection (B) of this section, any pupil who enrolls in a nonresident school or program pursuant to this article may remain enrolled in that school or program through the end of the school year.

(B) This section shall not apply if:

(1) The nonresident pupil is expelled pursuant to statute from the school or program;

(2) The nonresident pupil is excluded from the school or program for any of the reasons described in paragraphs (1) to (4) of subsection (A) of Section 5.

Section 11. {Definitions.} As used in this Act:

(A) The term “school” means a school that is operated or authorized by a public school district or other recognized educational agency, and that provides elementary or secondary education in accordance with state law.

(B) “Parent” means the natural or adoptive parent or legal guardian of a dependent child.

Section 12. {Severability clause.}

Section 13. {Repealer clause.}

Section 14. {Effective date.}

1995 Sourcebook of American State Legislation.

Notes

¹ As amended, the Act provides for both intradistrict and interdistrict open enrollment. States may adopt this more comprehensive approach, or may choose one or the other: allowing students to choose any school *within* the resident district, or allowing students to choose any school *outside* the resident district.

² States with stronger “local control” may designate the authority to a school district or local education agency.

³ Preferably, the application should be made at the school level to give students and parents greater access to their preferred educational option. In some states, however, this process may function better at the district level.

⁴ See Note 2. Alternate language may grant the authority to establish the deadline and form to “the resident or nonresident district of choice.” But creating a single standard time frame at the state level makes navigating open enrollment simpler for parents.

⁵ See Note 4. If this authority is granted at the state level rather than the school level, subsection 3 should be eliminated to prevent the sending district from exercising undue power to prevent the free exercise of choice.

⁶ States that provide funding based on average daily attendance or membership may choose a date or eliminate this point under Subsection A.

⁷ Place to cite existing statutes that define causes for expulsion based on ongoing habitually disruptive behavior, various criminal offenses or other activities deemed harmful to the welfare of other students or the effective implementation of the education program.

⁸ In some states, open enrollment without a bona fide family move affects a student’s ability to participate in interscholastic athletics and other competitive activities.

Resolution in Support of Private Sector Colleges and Universities

WHEREAS, private sector colleges enroll nearly 2.6 million students in the United States and comprise 42 percent of the 6,667 Title-IV eligible postsecondary institutions; and

WHEREAS, private sector colleges serve a diverse group of students and enroll a higher percentage of minorities—40 percent compared to 32 percent at public and 22 percent at private non-profit institutions; and

WHEREAS, twenty-four percent of all African-American students and 18 percent of all Hispanic students who received Associate degrees in 2008–2009 earned them at a private sector college; and

WHEREAS, private sector colleges enroll a much smaller number of students (10 percent) than do private not-for-profit (17 percent) and public institutions, they account for a disproportionate percentage of graduates in key fields, including: 42 percent of health care degrees and certificates conferred at two-year and less than two-year institutions; and 14 percent of health care degrees and certificates at four-year or more institutions; and

WHEREAS, the United States Department of Education is considering rules that may adversely impact hundreds of thousands of students attending private sector colleges and universities and are antithetical to the President’s goal of the United States once again having the highest proportion of colleges graduates in the world by 2020;

THEREFORE, BE IT RESOLVED that the State of [STATE] supports the goal of increasing the number of college graduates among American students; that laws and regulations promulgated should promote fair and equal access to all sectors of higher education; and that career aspirations should be a matter of choice for those pursuing a higher education; and

BE IT FURTHER RESOLVED THAT copies of this Resolution be sent to the President of the United States, the United States Congress, and the appropriate leadership of the United States Department of Education.

Parent Trigger Act

Summary

The Parent Trigger places democratic control into the hands of parents at school level. Parents can, with a simple majority, opt to usher in one of three choice-based options of reform: (1) transforming their school into a charter school, (2) supplying students from that school with a 75 percent per pupil cost voucher, or (3) closing the school.

Model Legislation

Section 1: {Short Title}

This act may be cited as the “Parent Empowerment and Choice Act” or the “Parent Trigger Act.”

Section 2. {Definitions}

For purposes of this article, the following definitions apply:

(A) “Parent” means the natural or adoptive parent or guardian of a dependent child.

(B) “School district of enrollment” means a school district other than the school district in which the parent of a pupil resides, but in which the parent of the pupil nevertheless intends to enroll the pupil pursuant to this article.

(C) “School district of residence” means a school district in which the parent of a pupil resides and in which the pupil would otherwise be required to enroll pursuant to state code.

Section 3. {Parent Empowerment}

For all public schools where more than one-half of the parents or legal guardians of pupils attending the school, or a combination of more than one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the three interventions identified pursuant to Section (5), the local educational agency shall implement the option requested by the parents.

Section 4. {Intervention Implementation}

The local educational agency shall notify the Superintendent and the state board upon receipt of a petition and upon its final disposition of that petition. The local education agency is given 180 days to implement the chosen model of reform.

Section 5. {School Intervention Models}

There are three school intervention models: restart model, school closure, or educational

choice model. Each is described below.

(A) Restart model. A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides “whole-school operation” services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

(B) School closure. School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available. In the event that no such school exists, the district will implement the educational choice model.

(C) Educational choice. Educational choice occurs when an LEA implements a school voucher program pursuant to Section 6.

Section 6. {Universal Educational Vouchers}

(A) Any student of, or student who would naturally matriculate into, a school triggered for the educational choice reform option will have the option to receive a monetary voucher to cover the cost of attendance at any private or other public school.

(B) Any student of a triggered school wishing to attend a private school will qualify for an annual scholarship in an amount equal to the lesser of:

(1) 75 percent the triggered school’s annual cost per pupil, including both operational and capital facility costs; or

(2) 75 percent the dollar amount the resident school district would have received to serve and educate the eligible student from state and local sources had the student enrolled there.

(C) Any student of a triggered school wishing to attend a different public school will qualify for any public school with no additional fee.

(D) Funds available to a student are calculated using an average of the last three (3) budget years and recalculated each year.

(E) Funds are made available to each student until the earlier of (1) completion of their high school degree or (2) their 21st birthday.

(F) Students receiving voucher monies are to be counted in the enrollment figures of their LEAs for the purposes of calculating future voucher monies.

(G) Students receiving voucher monies more than the cost of tuition in a private school are given the opportunity to store that money in an Educational Savings Account (ESA) to be used for any additionally encumbered educational expenses. Qualifying expenses include but are not limited to tutoring, lessons, educational camps, school materials, textbooks, educational software.

(H) There are no additional regulatory powers granted to the state in this legislation:

(1) The education voucher reform option does not expand the regulatory authority of the state, its officers, or any school district in any way.

(2) Any regulatory board in existence must be represented in at least half by members not a part of the public school system.

August 2010

The Parent Trigger: A Model for Transforming Education

By Joseph L. Bast, Bruno Behrend,
Ben Boychuk, and Marc Oestreich^{*}

The Parent Trigger is an innovation in education reform recently passed into law in California. Briefly put, if half the parents whose children attend a failing public school sign a petition requesting reform of the school, the school must either shut down, become a charter school, or undergo one of two other types of reform.

The Parent Trigger concept is the creation of the Los Angeles Parents Union, a group of self-described progressives led by Ben Austin, a Democrat whose previous employers include President Bill Clinton, Los Angeles Mayor Richard Riordan, and Hollywood director-turned-political-activist Rob Reiner. Austin was also a consultant to Green Dot Charter Schools, a Los Angeles-based nonprofit charter school chain that has taken over several failed public schools, including the notorious Locke High School in South Los Angeles, near Watts. In March 2010, Gov. Arnold Schwarzenegger (R) appointed Austin to a four-year term on the state's 11-member board of education.

The parent trigger has the potential to turbo-charge the transformation of education in every state by bringing grassroots “regime change” to public education.

The Parent Trigger passed by just one vote in the California Senate and one vote in the Assembly. Schwarzenegger signed it into law on January 7, 2010 as part of a package of special legislation designed to improve California's prospects in the first round of the federal Race to the Top grant competition.

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While California didn't make the cut in Race to the Top, the Parent Trigger is currently the law in the Golden State. According to the Web site of the Los Angeles Parents Union (www.parentrevolution.org), five schools currently have petition drives underway to transform their schools. These parents are moving forward on the Parent Trigger absent legal clarity, an indication of the demand for reform. At least one other state – Connecticut – is considering similar legislation. (Connecticut passed a wide-ranging education reform bill in May, but the final compromise legislation did not include a Parent Trigger provision.)

The Parent Trigger is unique. Unlike most reform proposals based on empowering parents, the Parent Trigger originates from activists on the political left, not from the center-right coalition. This pedigree creates an opportunity for building a successful coalition that can advance reform. Conservatives and libertarians should support the Parent Trigger because it could allow parents to choose charters or even vouchers (in the version described later in this paper); liberals and progressives should support it because it empowers low-income and minority parents to control the reform path their schools follow.

The Parent Trigger idea is also sufficiently malleable to accommodate different political realities in cities and states across the country.

The Parent Trigger idea is also sufficiently malleable to accommodate different political realities in cities and states across the country. In California and in proposed legislation in Connecticut, regulations would empower school districts to veto efforts by parents, and two of the four options seem tailored to the needs of bureaucracies more than children. More reform-minded states

such as Indiana, Michigan, and Minnesota might choose to reject those regulations and replace the weakest reform options with something much stronger, such as vouchers.

The Parent Trigger has the potential to turbo-charge the transformation of education in every state by bringing grassroots “regime change” to public education. Is the Parent Trigger right for your state? This policy brief explains the promise and possible pitfalls of the Parent Trigger.

1. California Parent Trigger - Basics

The Parent Trigger is created by Section 2, Article 3 (commencing with Section 53300) of California's Education Code. The full text appears in Appendix 1. The legislation empowers parents or guardians whose children attend failing public schools to “trigger” one of four school intervention models by signing a petition to reform that school.

By empowering parents, the Parent Trigger forces school districts to undertake dramatic changes that education bureaucracies would otherwise oppose. A parent's primary interest is the best possible education for his or her children, while an education bureaucracy has divided and

conflicting interests to serve parents and children while also serving teacher unions, other employees, political overseers, and career bureaucrats.¹

Concerned and engaged parents from all walks of life support the idea of a Parent Trigger. More than 3,000 parents, many of them African-American and Latino, rallied in Los Angeles in August 2009 for empowerment. Thousands more sent letters, made calls, organized demonstrations, and testified before the California legislature in support of the statewide law.

Lydia Grant, a parent in the Los Angeles suburb of Sunland-Tujunga, is leading a Parent Trigger petition drive at Mt. Gleason Middle School. “There is an unsafe atmosphere at this school that is spilling over into the community,” Grant explained to the *Los Angeles Daily News*. “People are tired of it and we want to see change.”²

Supporters are not bound by a particular ideology or political party. Many of the activists who conceived the Parent Trigger in 2009 campaigned and voted for Barack Obama in 2008. They realize America’s public school system is broken because it isn’t designed to succeed. America’s \$400 billion public education system exists

America’s \$400 billion public education system exists primarily to serve grownups – bureaucrats, unions and other special interests – not kids or parents.

primarily to serve grown-ups – bureaucrats, unions, and other special interests – not kids.

Who opposes the Parent Trigger? Principally, teacher unions. Because many parents will likely choose to have their schools convert to charters and most charter schools are not unionized, powerful unions like the California Teachers Association view parental empowerment as a threat. Some charters, including Green Dot, have their own unions, but these are unaffiliated with the established public employee unions such as the National Education Association or the American Federation of Teachers.

The unions are so afraid of the Parent Trigger, they are willing to use underhanded tactics to stop it. When parents in the Los Angeles Unified School District organized behind the Parent Trigger idea last year, the powerful United Teachers of Los Angeles union began circulating rumors in Hispanic neighborhoods that parents would be forced to pay tuition at a charter school and could even be deported if they signed a petition.³ The union called the proposal “the lynch mob provision,” which revealed contempt for parents as well as tone deafness. Parent Trigger supporters are mostly poor, mostly African-American and Latino parents who simply want a

¹ See John E. Chubb and Terry M. Moe, *Politics, Markets, and America’s Schools* (Washington, DC: Brookings Institution, 1990).

² Connie Llanos, “Parents pulling ‘trigger’ on school,” *Los Angeles Daily News*, February 14, 2010.

³ “L.A. school leaders, community groups to debunk inflammatory flier aimed at undocumented parents,” LA Now blog, <http://latimesblogs.latimes.com/lanow/2009/11>, November 10, 2009.

better education for their children. They are being compared to white supremacists by the well-funded, politically powerful teachers union.

Parents eligible to initiate a Parent Trigger petition are those with children enrolled in a failing school, as defined by the California School Code, or in feeder schools (neighborhood primary or middle schools) that send children to a failing school. Schools must be labeled a “program improvement school” for more than three consecutive years for failing to meet federal academic benchmarks, have an Academic Performance Index (the state’s benchmark test) of less than 800,⁴ and be among the lowest 5 percent of schools in California. A further absolute cap on the number of participating schools is set at 75 statewide.

Eligible parents are those with children either enrolled in a failing school, as defined by the California School Code.

If 50 percent of eligible parents sign the petition, the local education agency (LEA) – usually a school district – must undertake one (or more) of the four “school intervention models” prescribed under the Race to the Top program defined in Appendix C of the Race to the Top Overview in the Federal Register⁵ and incorporated by reference into California’s Parent Trigger legislation. Briefly, the four models are:

- Closure - Close the school, fire the staff, and send the children to better-performing schools nearby.
- Restart - Convert the school to an independent charter school.
- Turnaround - Replace school leadership and grant new leaders more flexibility.
- Transformation - Turnaround model with added layers of bureaucratic oversight.

Each option is described in more detail and analyzed in Part 2 of this paper. Once parents submit the petition with sufficient signatures, the Parent Trigger law says the LEA:

... shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary

⁴ Academic Performance Index (API) scores in California are a compilation of a school’s state standardized test scores, on a scale of 200 to 1,000. The California Department of Education expects all schools eventually to obtain APIs of at least 800.

⁵ *Federal Register* / Vol. 74, No. 221 / Wednesday, November 18, 2009 / Notices - Appendix C, School Intervention Models, pp. 59866-7.

and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.⁶

While this process contains some bureaucratic hurdles that could frustrate parents seeking accountability and local control, it is a stark departure from existing school governance. Voting for school board members and attending board meetings typically are the only avenues open to concerned parents today. Most people who have experience attempting to create improvement by such activities know they often are fruitless. The ability to initiate changes in school governance by having 50 percent of the school's parents or guardians sign a petition is a dramatic advance in parent empowerment. Properly implemented, the Parent Trigger could provide real, not illusory, parental control.

2. California Parent Trigger - Details

California's Parent Trigger legislation appears in Appendix 1. The legislation did not provide a clear set of instructions or detailed procedures for initiating a petition to trigger reform of a school.

On July 15, 2010, the California State Board of Education promulgated and passed "emergency regulations" related to the Parent Trigger.⁷ A public comment period was open July 16 through July 23. The regulations define terms, clarify the signature process, and provide standards for the minimum amount of information that must be contained in the petitions.⁸ The regulations also add a fifth reform option to the four incorporated by reference to the *Federal Register*.

If half of the parents eligible to sign the petition do so, the district must act. The intrinsic simplicity of the process makes it easy to engage parents in a campaign to change their children's school.

If half of the parents eligible to sign the petition do so, the district must act. The intrinsic simplicity of the process makes it easy to engage parents in a campaign to change their children's school. However, many questions are left unanswered by the sparsely worded legislation. For which transformation strategy should the parents petition? What level of specificity should the petition have? What happens once they get enough signatures?

⁶ California Education Code, Sec. 2, Article 3 - Parent Empowerment, Section 53300.

⁷ See "State board OKs open enrollment for 1,000 schools in Program Improvement; Parent petitions to require reforms in underachieving schools also authorized," http://www.csba.org/NewsAndMedia/Publications/CASchoolNews/2010/July/ElectronicOnly/SBE_OpenEnroll.aspx; and Parent Empowerment Emergency Regulations, <http://www.cde.ca.gov/re/lr/rr/parentemp.asp>

⁸ For example, for each child attending the failing school, the regulations state only one eligible parent or guardian may sign a petition.

To add more uncertainty to the process, the Parent Trigger law allows the school district to supercede the parent's choice of reform so long as it produces a reason "in writing" as a result of a "regularly scheduled meeting" of its board. Giving school boards the power to veto the demands of the parents could undermine the whole Parent Trigger ideal by making the petition little more than a gesture of parental frustration.

Parents interested in using California's Parent Trigger should understand that their school board could choose unilaterally to reject their petition. Parents should be prepared to document their case for transformation and present it to board members, the press, and civic and business leaders as petition signatures are being gathered. School reform advocates in other states should consider strengthening any Parent Trigger proposal put forth in their state by removing the veto power of school boards.

3. Choosing an Option

As mentioned above, the four intervention options defined in the federal Race to the Top program are incorporated by reference into California's Parent Trigger legislation. The actual language from the legislation appears in Appendix 2. The four models are school closure, restart (charter), turnaround, and transformation.

This is a kind of school choice that operates in the private sector, where schools that fail to impress parents and attract students are forced to close their doors.

Closing persistently failing schools and transferring students to higher-performing schools within the district or turning schools into charter schools are relatively straightforward and robust reforms. The other two models are complex procedures that could mire school districts in years of hearings, meetings, reorganization plans,

contracts for outside consultants, and myriad other activities of questionable benefit to children. We analyze each option below.

School Closure Model

The school closure model calls for closing the school and sending its pupils to "higher-achieving" schools in the district. This might be a viable alternative where higher-performing schools exist in the proximity of the failing school, but this won't always be the case.

School closure rapidly enforces accountability by closing failing schools and placing students in better schools immediately. This is a kind of school choice that operates in the private sector, where schools that fail to impress parents and attract students are forced to close their doors,

while those that satisfy parents are allowed to succeed. Extensive research shows how the possibility of failure and rewards for success lead to higher student academic achievement.⁹

It may be argued that closing schools and relocating students is unfair to the faculty and staff of failing schools. Perhaps with more resources, or outside assistance, or more time, or the right leader, or with less outside interference from politicians and bureaucrats, the school would improve. This appeal for a second, or third, or fourth chance will resonate with many parents and community leaders. Indeed, such appeals have prevented “radical” reforms such as vouchers and tax credits from becoming law in most of the country for many years.

It is important that school closure be an option under the Parent Trigger – and not be viewed only as “an absolute last resort” – precisely because virtual immunity to closure has fostered a climate of low achievement in so many school systems. Nothing focuses attention on student achievement as effectively as a bona fide threat of closure. Closure in some situations is the only way to get around tenure laws that prevent the termination of incompetent or even potentially dangerous individuals who work for school systems.

While moving children into new schools can be disruptive for the child, parents, and teachers, that cost must be weighed against the potential benefit for the individual child as well as other children. Most transferring students recover whatever academic ground they lose after one or two years in their new school and then outperform their counterparts who remained behind in the failing school.¹⁰ All students, including those not enrolled in a failing school, benefit when even a small number of schools are closed due to the signal such closures sends that failure will not be tolerated.

In cases where failure is pervasive, this is like rearranging chairs on the deck of the Titanic: The new schools are not likely to be much better than the old schools.

The bigger potential problem with the school closure option is that students are relocated only to other public schools in their district. In cases where failure is pervasive, this is like rearranging chairs on the deck of the Titanic: The new schools are not likely to be much better than the old schools. Closure is more likely to benefit students if their parents are given a wider choice of schools in which their children can enroll: public schools outside their district, charter schools, and even private schools that agree to accept tuition paid by the school district. This final option is further explored later in this report.

⁹ See Herbert Walberg, *Advancing Student Achievement* (Stanford, CA: Hoover Institution Press, 2010); and Herbert Walberg, *School Choice: The Results* (Washington, DC: Cato Institute, 2007).

¹⁰ Caroline M. Hoxby and Jonah E. Rockoff, “Findings from the City of Big Shoulders,” *Education Next*, Fall 2005.

Restart Model

The federal guidelines for the restart model consist of only five sentences:

A restart model is one in which an LEA (usually a local school district) converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides “whole-school operation” services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.¹¹

Charter schools are a popular and effective reform, free from many of the rules and regulations that often contribute to a public school’s failure.

Charter schools are public schools operated by private entities (for-profit or nonprofit) under a charter for a limited amount of time. They are subject to performance standards set forth in the charter, which typically include minimum graduation and academic achievement levels and other outputs.

Charter schools are a popular and effective reform.¹² They are free from many of the rules and regulations that often contribute to a public school’s failure. Charters may use a different curriculum, or emphasize certain subjects such as languages or science. Charter school officials often may hire and fire teachers and staff at will, which is why the teacher unions have opposed them so strongly.¹³

The choice of charter operation under the Race to the Top guidelines is limited to those organizations selected from a “rigorous review process.” This does not constitute an onerous restriction on parents or LEAs that choose this route, and it may help avoid some of the problems that afflict schools started by individuals and organizations who may be long on enthusiasm but short on capital and experience. Experienced charter school operators include Green Dot, the Knowledge Is Power Program (KIPP), Heritage Charter Academies, Rocketship Learning Centers, and Harlem Children’s Zone (HCZ) Promise Academies. Their success has given them

¹¹ *Federal Register*, supra note 5.

¹² Caroline Hoxby, “Achievement in Charter Schools and Regular Public Schools in the United States: Understanding the Differences,” December 2004, http://www.ksg.harvard.edu/pepg/pdf/HoxbyCharters_Dec2004.pdf.

¹³ Howard Blume, “Teacher unions and charter school advocates square off over election,” *Los Angeles Times*, May 19, 2010.

access to the start-up capital and human resources that are critical for the success of new schools.¹⁴

California parents who are eligible to initiate and execute the Parent Trigger should promote the conversion to a charter as the option most likely to improve the education their children effectively and quickly. Charters enjoy broad public support across the political spectrum while school closings do not. With the existence of an experienced pool of charter operators, it is relatively easy to bring in proven and streamlined management for the school.

California parents who are eligible to initiate and execute the Parent Trigger should promote the conversion to a charter as the option most likely to improve the education of their children effectively and quickly.

Turnaround Model

The turnaround model is designed to change the management of a failing school by mandating the replacement of principals and giving their replacements expanded “operational flexibility” to manage the schools. The federal regulations require LEAs to perform nine activities under a turnaround model:

- (i) Replace the principal and grant the [new] principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;
- (ii) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students, (A) Screen all existing staff and rehire no more than 50 percent; and (B) Select new staff;
- (iii) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;
- (iv) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school’s comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

¹⁴ Monica Higgins and Frederick M. Hess, “The Challenges for Charter Schools,” *Education Outlook*, April 2009.

(v) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new “turnaround office” in the LEA or SEA, hire a “turnaround leader” who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or SEA to obtain added flexibility in exchange for greater accountability;

(vi) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards;

(vii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(viii) Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and

(ix) Provide appropriate social-emotional and community-oriented services and supports for students.¹⁵

No doubt some of the turnaround activities are good ideas, but mandating that school districts adopt them doesn’t mean they will be embraced with enthusiasm or be successful if implemented.

No doubt some of these activities are good ideas and have research backing, but mandating that school districts adopt them doesn’t mean they will be embraced with enthusiasm or be successful if implemented. Research on turnaround strategies paints a disappointing picture. A recent study by the Brookings Institution concluded: “The science of turnarounds is weak and devoid of practical, effective strategies for educators to

employ.”¹⁶ The study compared eighth grade test scores from 1,156 schools in California from 1989 to 2009 and found them to be “remarkably stable” – in other words, stagnant. According to the report: “Of schools in the bottom quartile in 1989 – the state’s lowest performers—nearly two-thirds (63.4 percent) scored in the bottom quartile again in 2009. The odds of a bottom quartile school’s rising to the top quartile were about one in seventy (1.4 percent).”¹⁷

Hiring new staff, spending more tax dollars on tutoring, replacing school administrators, extending school hours, and similar changes have not resulted in significant improvements in student performance. These strategies all require additional tax dollars to flow into schools: a

¹⁵ *Federal Register*, supra note 5.

¹⁶ Tom Loveless, “The 2009 Brown Center Report on American Education: How Well Are American Students Learning?” Brookings Institution, March 2010.

¹⁷ *Ibid.*

“reform” the education establishment favors but research shows has little or no effect on student achievement.¹⁸

The turnaround model is weak and expensive medicine compared to the school closure and restart options. Merely replacing the existing school management with another version of mostly bureaucratic control offers no guarantee that outcomes for children would improve. This “musical chairs” approach to reform differs little from business-as-usual for many school districts.

Merely replacing the existing school management with another version of mostly bureaucratic control offers no guarantee that outcomes for children would improve.

Transformation Model

The transformation model is similar to the turnaround model, but even more prescriptive. Local education authorities are required to:

- (A) Replace the principal who led the school prior to commencement of the transformation model;
- (B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals
- (C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high-school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;
- (D) Provide staff with ongoing, high quality, job-embedded professional development (e.g., regarding subject specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school’s comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and
- (E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.¹⁹

¹⁸ Eric A. Hanushek, “Spending on Schools,” in *A Primer on American Schools* (Stanford, CA: Hoover Institution Press, 2001), pp. 69-88.

¹⁹ *Federal Register*, supra note 5.

The *Federal Register* then proceeds to lay out a panoply of “required activities,” mandating “permissible” and “impermissible” “systems” and “strategies.” The complexity of this model is illustrated by the fact it takes up more than half of the text of the entire Appendix C outlining the four models. The other “bureaucracy-heavy” option, the turnaround model, takes up about a quarter. Both the restart and school closure models together take up only one-tenth of the text of Appendix C.

Parents would be right to question whether all these activities and strategies differ much from what school officials claim to be doing already, and have been doing for years.

Parents would be right to question whether these activities and strategies differ much from what school officials claim to be doing already, and have been doing for years to “reform” their schools. Thousands of academics have made careers out of studying “what works” in education, and tens of thousands of consultants and school administrators use their suggestions and

vocabulary to attempt to improve schools ... but drop-out rates remain stubbornly high and academic achievement scores disappointingly low.

As California state Sen. Gloria Romero, a Democrat representing Los Angeles and author of the Parent Trigger bill, told the *Los Angeles Times*, “I’m sorry – after a certain point you are no longer credible on the promise that you’ll fix it. Parents want change and opportunity now.”²⁰

Alternative Governance Model

The Alternative Governance Model was added to the Parent Trigger by the State Board of Education when it promulgated “emergency regulations” for implementing the sparsely worded legislation.

Alternative governance is a reform option already in use in California.²¹ It was added to the Parent Trigger to accommodate school districts already in the process of reform prior to passage of the Parent Trigger, and to give parents the authority to trigger that option. The Alternative Governance Model closely resembles the Turnaround and Transformation models.

²⁰ Connie Llanos, *supra* note 2.

²¹ “Alternative governance is one in which an LEA institutes any other major restructuring of the school’s governance arrangement that makes fundamental reforms, such as significant changes in the school’s staffing and governance, to improve student academic achievement in the school and that has substantial promise of enabling the school to make adequate yearly progress as defined in the State plan under Section 6311(b)(2) of the federal Elementary and Secondary Education Act.” Chapter 5.2.5 Parent Empowerment, Subchapter 1, Article 1-General Provisions, § 4807.

4. California Parent Trigger – Flaws and Fixes

California's Parent Trigger is an innovative and positive piece of public policy, but it is not perfect. Five flaws in particular are likely to limit its effectiveness. In this chapter we describe the flaws and present reforms that would fix them.

Five flaws are likely to limit the effectiveness of California's Parent Trigger.

Undermining Parent Control

The biggest flaw in California's Parent Trigger is that it allows local school authorities to override the option chosen by parents. The local education agency (school district) can simply produce a reason "in writing" as to why it "cannot implement the specified recommendation" made by parents. The district can then pick another of the four options, which it must begin to implement in the next school year. The law does not allow for any appeals process for the parents to enforce their wishes.

On paper, this may seem to be a reasonable check-and-balance on citizen initiative. The California law as written, however, gives the district power to kill charter conversions. Any district bureaucracy intent on asserting its prerogatives can circumvent the "option requested" by parents simply by announcing at a "regularly scheduled public hearing" that it has "made a finding in writing" that it cannot implement the parents' first choice. Once a school board makes its finding, the parents' options appear to be closed. California parents and policymakers should consider removing this preemption of parent power.

Connecticut was poised to repeat California's mistakes ... and even make them worse. A bill by state Sen. Jason Bartlett (D-Danbury) would have given school boards more authority to choose the turnaround model. If parents made a decision and the local school board disagreed, the final decision would have fallen to the state Education Commissioner. As noted earlier, Connecticut passed an education reform measure in May, but that law did not include a Parent Trigger.

To make sure parents aren't encumbered by rules intended to frustrate their efforts, parents and legislators should monitor carefully the recently released "emergency regulations" for implementing the Parent Trigger in California. For parents and legislators in other states who might be interested in promoting the parent trigger concept, some specific recommendations appear in Part 5 below.

Eligibility Restrictions

The Parent Trigger places severe restrictions on which schools are subject to the law. As reported earlier, schools must be labeled a “program improvement school” for more than three consecutive years for failing to meet federal academic benchmarks, have an Academic Performance Index (the state’s benchmark test) of less than 800, and be among the lowest 5 percent of schools in California. A further absolute cap on the number of participating schools is set at just 75 statewide.

Once again, Connecticut was poised to repeat California’s mistake. Bartlett’s bill would have capped the Parent Trigger program at only 25 schools and limit eligibility to schools that were classified as persistently failing for five years rather than three years. Even with this restrictive definition of eligible schools, the cap would have left 160 failing schools with no reform option.

Similarly arbitrary caps on the number of charter schools have led to a nationwide waiting list of approximately 365,000 students.²² Without caps of this sort we could see more than 1,000 additional charter schools.

The eligibility restrictions in the California Parent Trigger appear to be concessions to the powerful adult interest groups that dominate the school reform debate.

It would be more in keeping with the spirit of parental empowerment that parents, rather than state and federal bureaucrats, be allowed to determine which schools are “failing” and therefore subject to the Parent Trigger. If half of the parents of children attending a school believe their children would be better off if the school were closed, converted into a

charter school, or otherwise transformed, isn’t that enough evidence that change should occur?

The eligibility restrictions in the California Parent Trigger appear to be concessions to the powerful adult interest groups that dominate the school reform debate: teachers unions, principals, school district administrators, and school boards. If we believe parents know best and care most about what is in their children’s interest, then the restrictions and caps ought to be removed.

Federal Meddling

California’s Parent Trigger law is tied to the federal Race to the Top initiative, which is funded by the 2009 American Recovery and Reinvestment Act. Although promoted as “an unprecedented investment in cutting-edge ideas that will produce the next generation of school

²² “Caps on Charter Schools,” National Association for Public Charter Schools, <http://www.publiccharters.org/node/45>, last viewed July 29, 2010.

reforms,”²³ Race to the Top is actually quite prescriptive, as the description of the turnaround and transformation models demonstrates. By incorporating by reference federal rules and guidelines, California’s legislators have made school reform in their state subject to the past and future judgments of Congress and Washington bureaucrats.

The connection to Race to the Top also has budget implications. While California’s Parent Trigger has no expiration date, Race to the Top is currently a four-year program. With the national government deeply in debt and major political battles over spending and entitlements on the horizon, how likely is it that federal funds will be available in five years ... or even three or four years?

California’s Parent Trigger would be better if it incorporated the description of the four options in the legislation without reference to Race to the Top. That would also give legislators an opportunity to revise and improve those options, as we begin to discuss next.

Charter School Funding

Essential to the success of the Parent Trigger model is funding equity among the options available to parents. If parents choose the charter school option, under current policies in California they may find that per-student funding will be less than if they hadn’t “pulled the trigger.” With federal funds flowing to schools that choose the turnaround and transformation models, it is also likely that those choices will be unfairly favored with higher spending.

How much charter schools in California receive in public funding is a complex issue, with funding coming from a half-dozen different sources.²⁴ A 2005 study by the Thomas B. Fordham Foundation of funding for charter schools nationwide found on average, the funding gap between traditional public schools and charters is 22 percent, or \$1,800 per pupil.²⁵ The discrepancies are much larger in most urban school districts, where the gap approached \$2,200 per pupil. In cities such as San Diego and Atlanta, charters receive 40 percent less funding than traditional public schools.

Essential to the success of the Parent Trigger model is funding equity between the options available to parents.

²³ Arne Duncan, quoted in “U.S. Secretary of Education Announces National Competition to Invest in Innovation,” news release, U.S. Department of Education, October 6, 2009.

²⁴ Charter School Development Center, “California Charter School Finance in a Nutshell,” n.d., http://www.cacharterschools.org/pdf_files/Charter%20Funding%20Basics.pdf.

²⁵ Hassel, Bryan and Speakman, Sheree (2005). “Charter School Funding: Inequity’s Next Frontier.” Thomas B. Fordham Institute, August 2005. <http://www.edexcellence.net/doc/Charter%20School%20Funding%202005%20FINAL.pdf>

The Parent Trigger gives California lawmakers and charter school advocates a way to achieve funding parity with other public schools. A simple provision should be added to the trigger law saying per-pupil spending shall not be reduced if parents choose the restart/charter school option.

Limited Options

California's Parent Trigger gives parents of children attending failing public schools four reform options: closure, restart (charter school), turnaround, and transformation. Closure assumes nearby schools are better than the failing school, which often is not the case. The last two options, as we have argued, may give only the appearance of real reform. While full of buzzwords and promoted by an army of "experts" eager to get paid to share their theories and oversee the implementation of their recommendations, the record shows these options are the least likely to actually improve graduation rates and academic achievement.

What is left is restart — conversion to charter schools. The idea that parents ought to be able to petition to have their schools become charter schools is a good one, and it offers a novel way around political opposition to closing failing public schools and opening new charter schools. Letting parents decide gives them ownership of the decision and a role in the process of choosing a charter operator. Many politicians would be grateful to be removed from the political controversy that often accompanies school closings.

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We think California's Parent Trigger would be improved simply by removing the final two options. This would avoid the "easy out" the current law gives to local school district bureaucrats and school boards. But far better would be *replacing* turnaround and transformation with vouchers for parents to

use to pay tuition at the schools of their choice.²⁶ Empowering parents to choose a different school for their children is in keeping with the parent-empowerment spirit of the Parent Trigger, and by making it one of three choices parents can make, it would once again free politicians from having to take a position on a potentially controversial issue.

Changing the options could save California taxpayers hundreds of millions of dollars. Applying the turnaround model to California's 166 lowest-performing schools would cost taxpayers at least \$416 million a year.²⁷ If instead parents with children at those schools were given vouchers

²⁶ We note here that the authors of the California Parent Trigger, Gabe Rose and Ben Austin among them, do not share our recommendation for dropping the turnaround and transformation options and replacing those options with a voucher option. Reasonable people can disagree on such things and yet work together productively on the strategies on which they agree.

²⁷ The America's Recovery and Reinvestment Act set aside funds specifically for the turnaround model. California's share is nearly \$416 million for its 166 qualifying schools. <http://www.ed.gov/news/press-releases/california-receive-nearly-416-million-turn-around-its-persistently-lowest-achieving-schools>

equal to 75 percent of current public school spending, every child who made use of that option would represent a savings of 25 percent. If just 20 percent of the students used vouchers, California taxpayers would save more than \$48.7 million in state education spending,²⁸ a net difference between these two options of \$465 million a year.

5. Making a Better Parent Trigger

California's Parent Trigger was a product of the state's political and economic environment. Parents in Los Angeles and elsewhere were fed up with repeated promises to reform failing schools and wanted immediate action. The state faced the largest state budget deficit in the nation, and the federal government was offering hundreds of millions of dollars to states that agreed to implement its four options for reforming failing schools.

Other states face similar pressures and choices, but they do not have to make the same choices California's lawmakers made. Some changes to the Parent Trigger, suggested by the "flaws and fixes" presented in Part 4, could make it an even more promising reform in other states. In this chapter we describe five ways to make a better Parent Trigger.

Some changes to the Parent Trigger could make it an even more promising reform in other states.

Increase Parent Power

The boldest contribution the Parent Trigger makes to the school reform effort is to place in the hands of parents the power to initiate and oversee fundamental reform. California's Parent Trigger undermines that power by allowing school district officials to overrule a petition by parents. We recommend removing that authority and creating the necessary legal and oversight authorities to compel implementation of what parents call for. In addition:

- The petition process should not be encumbered with petty dictates about paper size and color or unrealistic deadlines. Parents should have access to school premises to collect signatures.
- If school boards are given the authority to overrule a petition by parents, a process for appealing such a decision should be made explicit in the trigger law. Public funding for

²⁸ Figures calculated using Census 2008 per-pupil spending data and National Center for Education Statistics enrollment figures. Average school enrollment = 595 students, per-pupil spending = \$9,863. With 166 failing schools, on average 595 students per school, that's 98,770 students. Assuming 20 percent of students opt for vouchers, that would be 19,754 students leaving public schools. Assuming vouchers worth 75 percent of current per-pupil spending (thus saving 25 percent for each child who uses a voucher), the total savings generated by the voucher program would be 19,754 students x \$2,466 savings = \$48,713,364.

litigation and representation of parents during the appeals process should be considered and provided for in the trigger law. The appeals provision should be written to place the burden of proof on the school district to demonstrate why it cannot implement the reform chosen by parents.

- Boards or committees created to oversee the process should have majority representation by parents, or even consist exclusively of parents since teachers, board members, and others all have manifest conflicts of interest. Candidates for such boards should be ruled ineligible if they work for a school district or have a spouse who works for one.

The point of these suggestions is to put parents on a more level playing field with the powerful interest groups that otherwise dominate the education reform debate.

Expand Eligibility

California's Parent Trigger applies only to failing public schools, narrowly defined, and even then caps the number of eligible schools at 75. Much better would be the following policies:

- The parents of *all* children attending public schools should be able to petition to reform their schools. Even many supposedly successful schools would be improved by converting to charter status, and every school has some number of parents who would rather be able to send their children to a private school. The Parent Trigger should empower them all.
- There should be no arbitrary cap on the number of schools that could participate in the program.
- Resources should be made available to parents so they can make informed choices about whether to begin a petition drive, how to word the petition, how to gather signatures, how to submit the petition, and so on. This could take the form of modest grants given competitively to nonprofit and civic organizations.

Uncouple from Race to the Top

It is not necessary or desirable that other states tie their trigger legislation so closely to the federal program.

Although the federal Race to the Top program provided an impetus for enacting the Parent Trigger in California, it is not necessary or desirable that other states tie their trigger legislation so closely to the federal program.

Federal funds always come with strings and almost always commit states to years of additional unforeseen spending. The federal guidelines may change; to guard against that, the options should be written directly into the parent trigger law. Moreover, school districts can “play

games” with Title 1 money to keep their schools off the federal “program improvement” list; under the California law, schools that don’t appear on that federal list are ineligible for the Parent Trigger.

The way to uncouple the Parent Trigger from Race to the Top is simple: Replace references to the federal legislation with language that reflects the genuine intent of state lawmakers.

Provide Equal Funding for Charter Schools

Parents who select the restart option should not be punished with a loss of public funding for their children. States should adopt policies that ensure charter schools are funded at the same level as public schools, including financial assistance for securing and maintaining facilities.

Expand Options to Include Vouchers

Simply removing the flawed turnaround and transformation models would leave parents with only two choices: closure and charters. We suggest adding a new third option: choice. Give those parents who want them vouchers or scholarships to pay tuition at participating public or private schools. The design of voucher programs can vary greatly to reflect local needs and concerns.²⁹ Voucher programs currently operate in half-a-dozen states and have produced significant improvements in test scores and parental satisfaction.³⁰

Expanding choice with vouchers is somewhat controversial on both the political left and right. Liberals and progressives fear the “commercialization of education” as private businesses launch schools and compete for students. They also worry that middle- and upper-income families will use their vouchers to leave public schools behind for the less affluent. These concerns have been greatly

alleviated by the past decade of experience with for-profit charter school management firms and the high level of participation in voucher programs by minorities and low-income families. The success of voucher programs in Milwaukee and Washington DC ought to remove any liberal doubts as to whether such programs can contribute to social justice.

The success of voucher programs in Milwaukee and Washington DC ought to remove any liberal doubts as to whether such programs can contribute to social justice.

²⁹ Herbert J. Walberg and Joseph L. Bast, *Education and Capitalism* (Stanford, CA: Hoover Institution Press, 2003), chapter 12; Milton Friedman and Rose Friedman, *Free to Choose* (New York, NY: Harcourt Brace Jovanovich, 1980).

³⁰ See Walberg, *supra* note 8; Philip Vassallo, “More than grades: How Choice Boosts Parental Involvement and Benefits Children,” *Policy Analysis*, Cato Institute, 2000, <http://www.schoolreform-news.org/article/12066>.

Conservatives and libertarians worry that school choice may undermine local control of public schools or the independence of private schools that currently are ineligible for public funds. Time also has helped make these concerns less relevant and persuasive. Suburbs are much more socio-economically diverse than they were in the past, families relocate more frequently to follow jobs or find desirable amenities, and the much-feared “government takeover” of private schools hasn’t occurred in states with choice programs.

The value of vouchers can be set at a percentage of current per-pupil public school spending, say 75 percent, to reflect the lower operating costs of private schools and the possibility that public schools have fixed costs that cannot be reduced as quickly as enrollment might fall. The program also can be phased in for parents with children already attending private schools.

Conclusion

Adoption of the Parent Trigger in California could be a pivotal moment in the national school reform movement. Because it doesn’t quite fit the ideological agendas or self-interest of the activists and organizations that have played leading roles in past reform efforts, it is not getting the attention it deserves.

Many things have been tried to improve the performance of America’s schools, and few have worked. Experts, politicians, and bureaucrats have dictated what reforms will be tried, and by nearly all accounts they have done a poor job. It’s time to give parents their turn at the wheel.

The Parent Trigger promises to work at many levels. It allows parents to decide if there should be more charter schools, if failing schools should close, and (in our “improved” Parent Trigger model) if some parents should be able to take their share of education tax dollars and use it at a different school. This decentralized approach taps local knowledge and respects local choices. It takes much of the ideological and political baggage out of the school reform effort, removing a major distraction and source of conflict.

We may have been harsh in our criticism of California’s Parent Trigger law, in our search for its flaws and clues for how to make a better law for other states. But California’s program is a major step forward and a bright beacon for other states to see and imitate. We have little doubt that California’s parents, activists, educators, and policymakers will make the Parent Trigger work because they wrote and worked to pass the law, and they have the most at stake in its success.

In the months and years ahead, we hope the Parent Trigger idea spreads from coast to coast, giving millions of parents the opportunity to reform their school or choose a different school. This is a powerful and important idea in an arena that needs good ideas. We stand ready to help as best we can.

Appendix 1

California Education Code, Section 53300-53303

Article 3 - Parent Empowerment

53300. For any school not identified as a persistently lowest-achieving school under Section 53201 which, after one full school year, is subject to corrective action pursuant to paragraph (7) of Section 1116(b) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and continues to fail to make adequate yearly progress, and has an Academic Performance Index score of less than 800, and where at least one-half of the parents or legal guardians of pupils attending the school, or a combination of at least one-half of the parents or legal guardians of pupils attending the school and the elementary or middle schools that normally matriculate into a middle or high school, as applicable, sign a petition requesting the local educational agency to implement one or more of the four interventions identified pursuant to paragraphs (1) to (4), inclusive of subdivision (a) of Section 53202 or the federally mandated alternative governance arrangement pursuant to Section 1116(b)(8)(B)(v) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.), the local educational agency shall implement the option requested by the parents unless, in a regularly scheduled public hearing, the local educational agency makes a finding in writing stating the reason it cannot implement the specific recommended option and instead designates in writing which of the other options described in this section it will implement in the subsequent school year consistent with requirements specified in federal regulations and guidelines for schools subject to restructuring under Section 1116(b)(8) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.) and regulations and guidelines for the four interventions.

53301. (a) The local educational agency shall notify the Superintendent and the state board upon receipt of a petition under Section 53300 and upon its final disposition of that petition.

(b) If the local educational agency indicates in writing that it will implement in the upcoming school year a different alternative governance arrangement than requested by the parents, the local educational agency shall notify the Superintendent and the state board that the alternative governance option selected has substantial promise of enabling the school to make adequate yearly progress as defined in the federally mandated state plan under Section 1111(b)(2) of the federal Elementary and Secondary Education Act (20 U.S.C. Sec. 6301 et seq.).

53302. (a) No more than 75 schools shall be subject to a petition authorized by this article.

(b) A petition shall be counted toward this limit upon the Superintendent and state board receiving notice from the local educational agency of its final disposition of the petition.

53303. A local educational agency shall not be required to implement the option requested by the parent petition if the request is for reasons other than improving academic achievement or pupil safety.

Appendix 2

Race to the Top Guidelines

Source: Federal Register / Vol. 74, No. 221 / Wednesday, November 18, 2009 / Rules and Regulations, pp. 59828-59830. <http://edocket.access.gpo.gov/2009/pdf/E9-27426.pdf>

Appendix C. School Intervention Models

There are four school intervention models referred to in Selection Criterion (E)(2): Turnaround model, restart model, school closure, or transformation model. Each is described below.

(a) Turnaround model.

(1) A turnaround model is one in which an LEA must—

(i) Replace the principal and grant the principal sufficient operational flexibility (including in staffing, calendars/time, and budgeting) to implement fully a comprehensive approach in order to substantially improve student achievement outcomes and increase high school graduation rates;

(ii) Using locally adopted competencies to measure the effectiveness of staff who can work within the turnaround environment to meet the needs of students,

(A) Screen all existing staff and rehire no more than 50 percent; and

(B) Select new staff;

(iii) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in the turnaround school;

(iv) Provide staff with ongoing, high-quality, job-embedded professional development that is aligned with the school's comprehensive instructional program and designed with school staff to ensure that they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies;

(v) Adopt a new governance structure, which may include, but is not limited to, requiring the school to report to a new "turnaround office" in the LEA or SEA, hire a "turnaround leader" who reports directly to the Superintendent or Chief Academic Officer, or enter into a multi-year contract with the LEA or SEA to obtain added flexibility in exchange for greater accountability;

(vi) Use data to identify and implement an instructional program that is research-based and "vertically aligned" from one grade to the next as well as aligned with State academic standards;

(vii) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students;

(viii) Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and

(ix) Provide appropriate social-emotional and community-oriented services and supports for students.

(2) A turnaround model may also implement other strategies such as—

- (i) Any of the required and permissible activities under the transformation model; or
- (ii) A new school model (e.g., the med, dual language academy).

(b) Restart model.

A restart model is one in which an LEA converts a school or closes and reopens a school under a charter school operator, a charter management organization (CMO), or an education management organization (EMO) that has been selected through a rigorous review process. (A CMO is a non-profit organization that operates or manages charter schools by centralizing or sharing certain functions and resources among schools. An EMO is a for-profit or non-profit organization that provides ‘whole-school operation’ services to an LEA.) A restart model must enroll, within the grades it serves, any former student who wishes to attend the school.

(c) School closure.

School closure occurs when an LEA closes a school and enrolls the students who attended that school in other schools in the LEA that are higher achieving. These other schools should be within reasonable proximity to the closed school and may include, but are not limited to, charter schools or new schools for which achievement data are not yet available.

(d) Transformation model.

A transformation model is one in which an LEA implements each of the following strategies:

(1) Developing and increasing teacher and school leader effectiveness.

(i) Required activities. The LEA must—

(A) Replace the principal who led the school prior to commencement of the transformation model;

(B) Use rigorous, transparent, and equitable evaluation systems for teachers and principals that—

(1) Take into account data on student growth (as defined in this notice) as a significant factor as well as other factors such as multiple observation-based assessments of performance and ongoing collections of professional practice reflective of student achievement and increased high-school graduations rates; and

(2) Are designed and developed with teacher and principal involvement;

(C) Identify and reward school leaders, teachers, and other staff who, in implementing this model, have increased student achievement and high-school graduation rates and identify and remove those who, after ample opportunities have been provided for them to improve their professional practice, have not done so;

(D) Provide staff with ongoing, high-quality, job-embedded professional development (e.g., regarding subject-specific pedagogy, instruction that reflects a deeper understanding of the community served by the school, or differentiated instruction) that is aligned with the school’s comprehensive instructional program and designed with school staff to ensure they are equipped to facilitate effective teaching and learning and have the capacity to successfully implement school reform strategies; and

(E) Implement such strategies as financial incentives, increased opportunities for promotion and career growth, and more flexible work conditions that are designed to recruit, place, and retain staff with the skills necessary to meet the needs of the students in a transformation school.

(ii) Permissible activities. An LEA may also implement other strategies to develop teachers' and school leaders' effectiveness, such as—

(A) Providing additional compensation to attract and retain staff with the skills necessary to meet the needs of the students in a transformation school;

(B) Instituting a system for measuring changes in instructional practices resulting from professional development; or

(C) Ensuring that the school is not required to accept a teacher without the mutual consent of the teacher and principal, regardless of the teacher's seniority.

(2) Comprehensive instructional reform strategies.

(i) Required activities. The LEA must—

(A) Use data to identify and implement an instructional program that is research-based and “vertically aligned” from one grade to the next as well as aligned with State academic standards; and

(B) Promote the continuous use of student data (such as from formative, interim, and summative assessments) to inform and differentiate instruction in order to meet the academic needs of individual students.

(ii) Permissible activities. An LEA may also implement comprehensive instructional reform strategies, such as—

(A) Conducting periodic reviews to ensure that the curriculum is being implemented with fidelity, is having the intended impact on student achievement, and is modified if ineffective;

(B) Implementing a school-wide “response-to-intervention” model;

(C) Providing additional supports and professional development to teachers and principals in order to implement effective strategies to support students with disabilities in the least restrictive environment and to ensure that limited English proficient students acquire language skills to master academic content;

(D) Using and integrating technology-based supports and interventions as part of the instructional program; and

(E) In secondary schools—

(1) Increasing rigor by offering opportunities for students to enroll in advanced course work (such as Advanced Placement or International Baccalaureate; or science, technology, engineering, and mathematics courses, especially those that incorporate rigorous and relevant project-, inquiry-, or design-based contextual learning opportunities), early-college high schools, dual enrollment programs, or thematic learning academies that prepare students for college and careers, including by providing appropriate supports designed to ensure that low achieving students can take advantage of these programs and course work;

(2) Improving student transition from middle to high school through summer transition programs or freshman academies;

(3) Increasing graduation rates through, for example, credit-recovery programs, re-engagement strategies, smaller learning communities, competency-based instruction and performance-based assessments, and acceleration of basic reading and mathematics skills; or

(4) Establishing early-warning systems to identify students who may be at risk of failing to achieve to high standards or graduate.

(3) Increasing learning time and creating community-oriented schools.

(i) Required activities. The LEA must—

(A) Establish schedules and implement strategies that provide increased learning time (as defined in this notice); and

(B) Provide ongoing mechanisms for family and community engagement.

(ii) Permissible activities. An LEA may also implement other strategies that extend learning time and create community-oriented schools, such as—

(A) Partnering with parents and parent organizations, faith- and community-based organizations, health clinics, other State or local agencies, and others to create safe school environments that meet students' social, emotional, and health needs;

(B) Extending or restructuring the school day so as to add time for such strategies as advisory periods that build relationships between students, faculty, and other school staff;

(C) Implementing approaches to improve school climate and discipline, such as implementing a system of positive behavioral supports or taking steps to eliminate bullying and student harassment; or

(D) Expanding the school program to offer full-day kindergarten or prekindergarten.

(4) Providing operational flexibility and sustained support.

(i) Required activities. The LEA must—

(A) Give the school sufficient operational flexibility (such as staffing, calendars/time, and budgeting) to implement fully a comprehensive approach to substantially improve student achievement outcomes and increase high school graduation rates; and

(B) Ensure that the school receives ongoing, intensive technical assistance and related support from the LEA, the SEA, or a designated external lead partner organization (such as a school turnaround organization or an EMO).

(ii) Permissible activities. The LEA may also implement other strategies for providing operational flexibility and intensive support, such as—

(A) Allowing the school to be run under a new governance arrangement, such as a turnaround division within the LEA or SEA; or

(B) Implementing a per-pupil schoolbased budget formula that is weighted based on student needs. If a school identified as a persistently lowest-achieving school has implemented, in whole or in part within the last two years, an intervention that meets the requirements of the turnaround, restart, or transformation models, the school may continue or complete the intervention being implemented.

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Mission Statement

The American Legislative Exchange Council's mission is...

To advance the Jeffersonian Principles of free markets, limited government, federalism, and individual liberty through a nonpartisan public-private partnership among America's state legislators, concerned members of the private sector, the federal government, and the general public.

To promote these principles by developing policies that ensure the powers of government are derived from, and assigned to, first the People, then the States, and finally the Federal Government.

To enlist state legislators from all parties and members of the private sector who share ALEC's mission.

To conduct a policy making program that unites members of the public and private sector in a dynamic partnership to support research, policy development, and dissemination activities.

To prepare the next generation of political leadership through educational programs that promote the principles of Jeffersonian democracy, which are necessary for a free society.

SCHOLARSHIP POLICY BY MEETING

ALEC Spring Task Force Summit:

1. ***Spring Task Force Summit Reimbursement Form:*** ALEC Task Force Members are reimbursed by ALEC up to a predetermined set limit for travel expenses. Receipts must be forwarded to the ALEC Policy Coordinator and approved by the Director of Policy.
2. ALEC Task Force Members' room & tax fees for a two-night stay are covered by ALEC.
3. *Official Alternate Task Force Members* (chosen by the State Chair and whose names are given to ALEC more than 35 days prior to the meeting to serve in place of a Task Force Member who cannot attend) are reimbursed in the same manner as Task Force Members.
4. ***State Scholarship Reimbursement Form:*** Any fees above the set limit, or expenses other than travel and room expenses can be submitted by Task Force Members for payment from their state scholarship account upon the approval of the State Chair. Receipts must be submitted to the State Chair, who will submit the signed form to the Director of Membership.
5. *Non-Task Force Members* can be reimbursed out of the state scholarship fund upon State Chair approval. Receipts must be submitted to the State Chair, who will submit the appropriate signed form to the Director of Membership.

ALEC Annual Meeting:

State Scholarship Reimbursement Form: State scholarship funds are available for reimbursement by approval of your ALEC State Chair. Expenses are reimbursed after the conference, and may cover the cost of travel, room & tax, and registration. Receipts are to be submitted to the State Chair, who will then submit the signed form to the Director of Membership.

ALEC States & Nation Policy Summit:

1. ***States & Nation Policy Summit Reimbursement Form:*** ALEC offers two scholarships per state to cover the cost of travel, room & tax, and registration not to exceed \$1,000.00 per person for a total of \$2,000.00 per state. ALEC scholarship recipients must be named by the ALEC State Chair. Expenses are submitted to the State Chair and reimbursed after the conference. The State Chair submits the signed form to the Director of Membership.
2. ***State Scholarship Reimbursement Form:*** Any other fees or payments must come out of the state scholarship account, with the approval of the State Chair. Receipts must be submitted to the State Chair, who submits the signed form to the Director of Membership.

ALEC Academies:

Academy Reimbursement Form: Attendees of ALEC Academies are reimbursed by the Task Force Committee hosting the Academy. Attendees will receive a form at the Academy, and will be reimbursed up to \$500.00 for travel, and room & tax fees for a two-night stay by ALEC. Receipts must be forwarded to the appropriate Task Force Director and approved by the Director of Policy.



American Legislative Exchange Council TASK FORCE OPERATING PROCEDURES

I. MISSION OF TASK FORCES

Assume the primary responsibility for identifying critical issues, developing ALEC policy, and sponsoring educational activities which advance the Jeffersonian principles of free markets, limited government, federalism, and individual liberty. The mission will be accomplished through a non-partisan, public and private partnership between ALEC's legislative and private sector members in the specific subject areas assigned to the Task Force by the Board of Directors.

II. TASK FORCE RESPONSIBILITIES

- A. Task Forces have the primary responsibility for identifying critical issues and developing ALEC's official policy statements and model legislation appropriate to the specific subject areas of the Task Force.
- B. Task Forces serve as forums for an exchange of ideas and sharing of experiences between ALEC's state legislator and private sector members.
- C. Task Forces are responsible for developing and sponsoring the following educational activities appropriate to the specific subject area of the Task Force:
 - publications that express policy positions, including, but not limited to State Factors and Action Alerts;
 - educational communication and correspondence campaigns;
 - issue specific briefings, press conferences and press campaigns;
 - witness testimony and the activities of policy response teams;
 - workshops at ALEC's conferences; and
 - specific focus events.
- D. The Executive Director is to ~~Task Forces are responsible for developing an annual budgets,~~ which shall include expenses associated with Task Force meetings and educational activities. A funding mechanism to finance all meetings and educational activities proposed by Task Forces must be available before they can be undertaken.

III. GENERAL PROCEDURES

- A. Requests from ALEC members for policy statements, model legislation and educational activities shall be directed by the Executive Director to the appropriate Task Force, or the Board of Directors if the issue does not fall within the jurisdiction of any Task Force. The appropriate Public and Private Sector Task Force Co-Chairs determine the agenda for each Task Force meeting, and the meetings will be called and conducted in accordance with these Operating Procedures.

The Director of Policy with the consent of the Executive Director assigns a model bill or resolution to the most appropriate Task Force based on Task Force content and prior jurisdictional history 35 days before a Task Force Meeting. All Task Force Co-Chairs will be provided an email or fax summary of all model bills and resolutions 35 days before the Task Force meeting

If both the Co-Chairs of a Task Force are in agreement that they should have jurisdiction on model legislation or a resolution, the legislation or resolution will be considered by the Task Force. If the other Task Force Co-Chairs believe they should have jurisdiction or if the author of the model bill or resolution does not agree on the jurisdictional assignment of the bill, they will have 10 days after the 35-day mailer deadline to submit in writing or by electronic appeal to the Director of Policy their intent to challenge the jurisdiction assignment. The Director of Policy will notify the Executive Director who will in turn notify the National Chair and the Private Enterprise Board Chair. The National Chair and the Private Enterprise Board Chair will in turn refer the matter in question to the Board of Directors Task Force Board Committee. The Director of Policy will establish a conference call for the Task Force Board Committee co- chairs, the author, the affected Task Force Co-Chairs and the Director of Policy at a time convenient for all participants.

The Task Force Board Committee Co-Chairs shall listen to the jurisdictional dispute by phone or in person within 10 days of the request. If both Task Force Board Committee Co-Chairs are in agreement that the Director of Policy made an incorrect jurisdictional referral, only then will the model bill or resolution be reassigned to a committee as they specify once agreed upon by the National Chair and the Private Enterprise Board Chair. The bill or model resolution is still eligible to be heard in whatever Task Force it is deemed to be assigned to as if submitted to the correct Task Force for the 35-day mailer. The National Chair and the Private Enterprise Board Chair decision is final on this model bill or resolution.

Joint referral of model legislation and/or resolutions are allowed if all the affected Task Force Co-Chairs agree. All model legislation and resolutions that have been referred to, more than one Task Force must pass the identical language in both Task Forces within two consecutive Task Force meetings. It is at the Task Force

Co-Chairs discretion how they will handle the hearings of the model legislation or resolution. Both sets of co-chairs have the ability to call a working group, subcommittee, or simply meet consecutively or concurrently if necessary.

If the Task Force co-chairs both agree to waive jurisdiction, they may do so as long as another Task Force still has jurisdiction.

The National Chair and the Private Sector Board Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.

- B. The National Chair and the Private Sector Board Chair will rely upon the Task Force Board Committee Co-Chairs for advice and recommendations on model legislation or resolutions when no jurisdiction in any of the existing Task Forces in operation can be found. The Task Force Board Committee Co-Chairs will work with the Executive Director and the Director of Policy to identify public and private sector Task Force members (not alternates) from the existing Task Forces should their expertise be of assistance to the Task Force Board Committee in reaching a determination and recommendation for approval by the National Chair and the Private Enterprise Board Chair.
- C. The Board of Directors shall have ultimate authority over Task Force procedures and actions including the authority to create, to merge or to disband Task Forces and to review Task Force actions in accordance with these Operating Procedures. Nothing in these Operating Procedures prohibits the Board of Directors from developing ALEC policy; however, such a practice should be utilized only in exceptional circumstances. Before the policy is adopted by the Board of Directors, it should be sent to the Public and Private Sector Task Force Co-Chairs under whose jurisdiction the matter falls for review and comment back to the Board of Directors.
- D. The operating cycle of a Task Force is two years. A new operating cycle begins on January 1 of each odd numbered year and ends on December 31 of the following even numbered year. Task Force activities shall be planned and budgeted on an annual basis within each two-year operating cycle.
- E. ~~At the ALEC Annual Meeting, each Task Force will be responsible for determining an operating budget for the succeeding calendar year. The Executive Director will notify the Task Force Co-Chairs, at the ALEC Annual Meeting, what inflation factor will be used by the Task Force to determine the operating~~

~~and programming budgets. Task Force membership and budget information will be reported to the Executive Director by the Public and Private Sector Task Force Co-Chairs. The Executive Director will present this information to the Board of Directors at its regular fall meeting.~~

- F. If a Task Force is unable to develop an operating budget, the Board of Directors will determine whether to continue the operations of the Task Force. This determination will be made according to: (1) the level of membership on the Task Force, and (2) the need for continued services developed by the Task Force for ALEC.
- G. The Board of Directors shall have the authority to allocate limited general support funds to finance the annual operating budget of Task Forces that meet the requirements prescribed in Section III (E). The Executive Director shall determine, and report to the Board of Directors, the amount of general support funds available to underwrite such Task Forces.

IV. MEMBERSHIP AND MEMBER RESPONSIBILITIES

- A. The membership of a Task Force consists of legislators who are members in good standing of ALEC and are duly appointed to the Task Force, in accordance with Section VI (A) and private sector organizations that are full members of ALEC, contribute to the assessment for the Task Force operating budget, and are duly appointed to the Task Force, in accordance with Section VI (B). Private sector organizations that were full members of ALEC and contributed the assessment for the Task Force's operating budget in the previous year, can be appointed to the Task Force for the current year, conditional upon renewal of full ALEC membership and receipt of the current year's assessment for the Task Force operating budget prior to March 31st, unless an alternative date has been approved by the Executive Director.
- B. Each Task Force shall have least two Co-Chairs; a Public Sector Task Force Co-Chair and a Private Sector Task Force Co-Chair. The Public Sector Task Force Co-Chair must be a member of the Task Force and appointed in accordance with Section VI (A). The Private Sector Co-Chair must represent a private sector member of the Task Force and be appointed in accordance with Section VI(B). The Co-Chairs shall be responsible for:
 - (1) calling the Task Force and the Executive Committee meetings to order, setting the agenda and co-chairing such meetings;
 - (2) appointing and removing legislators and private sector members to and from the Task Force Executive Committee and subcommittees;
 - (3) creating subcommittees, and determining each subcommittee's mission, membership limit, voting rules, deadlines, and term of service; and

- (4) selecting Task Force members to provide support for and against Task Force policies during formal Board reviews.
- C. Each Task Force shall have an Executive Committee appointed by the Public and Private Sector Task Force Co-Chairs that is appropriate in number to carry out the work product and strategic plan of ALEC and the Task Force. The Executive Committee shall consist of the Public Sector Task Force Co-chair, the Private Sector Task Force Co-Chair, the subcommittee co-chairs, and the remainder will be an equal number of legislative and private sector Task Force members. The Executive Committee will be responsible for determining the operating budget and proposing plans, programs and budgets for the succeeding year in accordance with (Section V (B); determining if a proposed educational activity conforms to a previously approved model bill, resolution or policy statement in accordance with (Section IX (F); and determining if an emergency situation exists that justifies waiving or reducing appropriate time limits in accordance with (Section VIII (H)).
- D. Each Task Force may have any number of subcommittees, consisting of Task Force members and advisors to focus on specific areas and issues and make policy recommendations to the Task Force. The Task Force Co-chairs, shall create subcommittees and determine each subcommittee's mission, membership limit, voting rules, deadlines, and term of service. Any model bill, resolution or policy statement approved by a subcommittee must be approved by the Task Force before it can be considered official ALEC policy.
- E. Each Task Force may have advisors, appointed in accordance with Section VI (G). Advisors shall assist the members and staff of the Task Force. They shall be identified as advisors on official Task Force rosters, included in all official Task Force mailings and invited to all Task Force meetings. Advisors may also have their expenses paid at Task Force meetings covered by the Task Force operating budget with the approval of the Task Force Co-Chairs. An advisor cannot be designated as the primary contact of a private sector Task Force member, cannot be designated to represent a private sector Task Force member at a Task Force, Executive Committee, or subcommittee meeting, and cannot offer or vote on any motion at a Task Force, Executive Committee, or subcommittee meeting.

V. Task Force Budgets

- A. Each Task Force shall develop and operate a yearly budget to fund meetings.
- B. The operating budget shall be used primarily to cover expenses for Task Force meetings, unless specific funds within the budget are authorized for other use by the Task Force. The operating budget shall be assessed equally among the private sector members of the Task Force. The Executive Director, in consultation with the Task Force Co-Chairs shall determine which costs associated with each meeting will be reimbursed from the operating budget. Any funds remaining in a

Task Force's operating budget at the end of a year are transferred to ALEC's general membership account.

- C. The operating budget shall not be used to cover Task Force meeting expenses associated with alternate task force members' participation, unless they are appointed by their State Chair to attend the Spring Task Force Summit with the purpose to serve in place of a Task Force Member who is unable to attend. Task Force meeting expenses of alternate task force members shall be covered by their state's scholarship account.
- D. The programming budget shall be used to cover costs associated with educational activities. Contributions to the programming budget are separate, and in addition to operating budget contributions and annual general support/membership contributions to ALEC. The Executive Director shall determine the contribution required for each educational activity.

VI. PROCESS FOR SELECTING TASK FORCE MEMBERS, CHAIRS, COMMITTEES AND ADVISORS

- A. Prior to February 1 of each odd-numbered year, the current and immediate past National chairman will jointly select and appoint in writing three legislative members and three alternates to the Task Force who will serve for the current operating cycle, after receiving nominations from ALEC's Public and Private State Chairs, the Executive Director and the ALEC Public and Private Sector members of the Board. At any time during the year, the National Chairman may appoint in writing new legislator members to each Task Force, except that no more than three legislators from each state may serve as members of any Task Force, no legislator may serve on more than one Task Force and the appointment cannot be made earlier than thirty days after the new member has been nominated. In an effort to ensure the nonpartisan nature of each Task Force, it is recommended that no more than two legislators of any one political party from the same state be appointed to serve as members of any Task Force. A preference will be given to those ALEC legislator members who serve on or chair the respective Committee in their state legislature. A preference will be given to legislators who sponsor ALEC Task Force model legislation in the state legislature.
- B. Prior to January 10 of each odd-numbered year, the current and immediate past National Chairman will jointly select and appoint in writing the Task Force Chair who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Chair and may be placed in rank order prior to transmittal to the Executive Director no later than December 1 of each even-numbered year. No more than five names may be submitted in nomination by the outgoing Task Force chair. The current and immediate past National Chairmen will jointly make the final selection, but

should give strong weight to the recommendations of the outgoing Task Force Chair. In an effort to empower as many ALEC leaders as possible, State Chairs and members of the Board of Directors will not be selected as Task Force Chairs. Task Force Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past National Chairmen may reappoint a Task Force Chair to a second operating cycle term.

- C. Prior to February 1 of each odd numbered year, the Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members of the Task Force Executive Committee, who will serve for the current operating cycle. The Public and Private Sector Task Force Co-Chairs will select and appoint in writing the legislative and private sector members and advisors to any subcommittee.
- D. Prior to February 1 of each year, the Private Enterprise Board Chair and the immediate past Private Enterprise Board Chair will select and appoint in writing the private sector members to the Task Force who will serve for the current year. The appointment letter shall be mailed to the individual designated as the primary contact for the private sector entity. At any time during the year, the Chair of the Private Enterprise Board may appoint in writing new private sector members to each Task Force, but no earlier than thirty days after the new member has qualified for full membership in ALEC and contributed the assessment for the appropriate Task Force's operating budget.
- E. Prior to January 10 of each odd-numbered year, the Chair of the Private Enterprise Board and the immediate past Private Enterprise Board Chair will select and appoint in writing the Task Force Private Sector Co-Chair who will serve for the current operating cycle, after receiving nominations from the Task Force. Nominations will be requested by the outgoing Task Force Private Sector Chair and may be placed in rank order prior to transmittal to the Chair of the Private Enterprise Board. The Chair and the immediate past Chair of the Private Enterprise Board will make the final selection, but should give strong weight to the recommendations of the outgoing Private Sector Task Force Co-Chair. In an effort to empower as many ALEC private sector members as possible, Private Enterprise State Chairs and members of the Private Enterprise Board will not be selected as Private Sector Task Force Co-Chairs. Private Sector Task Force Co-Chairs shall serve for one operating cycle term. Where special circumstances warrant, the current and immediate past Chair of the Private Enterprise Board may reappoint a Task Force Private Sector Chair to a second operating cycle term.
- F. Prior to February 1 of each odd-numbered year, the Task Force Private Sector Co-Chair will select and appoint in writing the private sector members of the Task Force Executive Committee, who will serve for the current operating cycle. The Task Force Private Sector Co-Chair shall select and appoint in writing the private sector members of any subcommittees.

- G. The Public and Private Sector Task Force Co-Chairs, may jointly appoint subject matter experts to serve as advisors to the Task Force. The National Chair and the Private Enterprise Board Chair may also jointly recommend to the Task Force Co-Chairs subject matter experts to serve as advisors to the Task Force.

VII. REMOVAL AND VACANCIES

- A. The National Chair may remove any Public Sector Task Force Co-Chair from his position and any legislative member from a Task Force with or without cause. Such action will not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive Task Force meetings.
- B. The Public Sector Task Force Co-Chair may remove any legislative member of an Executive Committee or subcommittee from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include failure to attend two consecutive meetings.
- C. The Chairman of the Private Enterprise Board may remove any Private Sector Task Force Co-Chair from his position and any private sector member from a Task Force with cause. Such action shall not be taken except upon thirty days written notice to such Chair or member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues. .
- D. The Private Sector Task Force Co-Chair may remove any private sector member of an Executive Committee or subcommittee from his position with cause. Such action shall not be taken except upon thirty days written notice to such member whose removal is proposed. For purposes of this subsection, cause may include but is not limited to the non-payment of ALEC General Membership dues and the Task Force dues.
- E. The Public and Private Sector Task Force Co-Chairs may remove an advisor from his position with or without cause. Such action shall not be taken except upon thirty days written notice to such advisor whose removal is proposed.
- F. Any member or advisor may resign from his position as Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, public or private sector Task Force member, Task Force advisor, Executive Committee member or subcommittee member at any time by writing a letter to that effect to the Public Sector and Private Sector Task Force Co-Chairs. The letter should specify the effective date of the resignation, and if none is specified, the effective date shall be the date on which the letter is received by the Public and Private Task Force Co-Chairs.

- G. All vacancies for Public Sector Task Force Co-Chair, Private Sector Task Force Co-Chair, Executive Committee member and subcommittee member shall be filled in the same manner in which selections are made under Section VI. All vacancies to these positions must be filled within thirty days of the effective date of the vacancy.

VIII. MEETINGS

- A. Task Force meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs. Task Force meetings cannot be held any earlier than thirty-five days after being called, unless an emergency situation has been declared pursuant to Section VIII(H), in which case Task Force meetings cannot be held any earlier than ten days after being called. It is recommended that, at least once a year, the Task Forces convene in a common location for a joint Task Force Summit. Executive Committee meetings shall only be called by the joint action of the Public and Private Sector Task Force Co-Chairs and cannot be held any earlier than three days after being called, unless the Executive Committee waives this requirement by unanimous consent.
- B. At least forty-five days prior to a task force meeting any model bill, resolution or policy must be submitted to ALEC staff that will be voted on at the meeting. At least thirty-five days prior to a Task Force meeting, ALEC staff shall distribute copies of any model bill, resolution or policy statement that will be voted on at that meeting. This requirement does not prohibit modification or amendment of a model bill, resolution or policy statement at the meeting. This requirement may be waived if an emergency situation has been declared pursuant to Section VIII(H).
- C. All Task Force meetings are open to registered attendees and invited guests of ALEC meetings and conferences. Only regular Task Force Members may introduce any resolution, policy statement or model bill. Only Task Force members will be allowed to participate in the Task Force meeting discussions and be seated at the table during Task Force meetings, unless otherwise permitted by the Public and Private Sector Task Force Co-Chairs.
- D. ALEC private sector member organizations may only be represented at Task Force and Executive Committee meetings by the individual addressed in the appointment letter sent pursuant to Section VI(D) or a designee of the private sector member. If someone other than the individual addressed in the appointment letter is designated to represent the private sector member, the designation must be submitted in writing to the Public and Private Sector Task Force Co-Chairs before the meeting, and the individual cannot represent any other private sector member at the meeting.

- E. All Task Force and Executive Committee meetings shall be conducted under the guidelines of Roberts Rules of Order, except as otherwise provided in these Operating Procedures. A copy of the Task Force Operating Procedures shall be included in the briefing packages sent to the Task Force members prior to each meeting.
- F. A majority vote of legislative members present and voting and a majority vote of the private sector members present and voting, polled separately, are required to approve any motion offered at a Task Force or Executive Committee meeting. A vote on a motion to reconsider would be only with the sector that made the motion. Members have the right, in a voice vote, to abstain and to vote present by roll-call vote. In all votes a member can change their vote up until the time that the result of the vote is announced. Only duly appointed members or their designee as stated in Section VIII (D) that are present at the meeting may vote on each motion. No proxy, absentee or advance voting is allowed.
- G. The Public Sector Task Force Co-Chair and the Private Sector Task Force Co-Chair, with the concurrence of a majority of the Executive Committee, polled in accordance with Section VIII (F), may schedule a Task Force vote by mail or ~~fax~~ any form of electronic communication on any action pertaining to policy statements, model legislation or educational activity. The deadline for the receipt of votes can be no earlier than thirty-five days after notification of the vote is mailed or ~~faxed~~ notified by any form of electronic communication, unless an emergency situation is declared pursuant to Section VIII (H), in which case the deadline can be no earlier than ten days after notification is mailed or ~~faxed~~ notified by any form of electronic communication. Such votes are exempt from all rules in Section VIII, except: (1) the requirement that copies of model legislation and policy statements be mailed or ~~faxed~~ notified by any form of electronic communication with the notification of the vote and (2) the requirement that a majority of legislative members voting and a majority of the private sector members voting, polled separately, is required to approve any action by a Task Force.
- H. For purposes of Sections VIII(A), (B) and (G), an emergency situation can be declared by:
- (1) Unanimous vote of all members of the Task Force Executive Committee present at an Executive Committee meeting prior to the meeting at which the Task Force votes on the model bill, resolution or policy statement; or
 - (2) At least three-fourth majority vote of the legislative and private sector Task Force members (voting in accordance with Section VIII (F)) present at the meeting at which the members vote on the model bill, resolution or policy statement.

- I. Ten Task Force members shall constitute a quorum for a Task Force meeting. One-half of the legislative and one-half of the private sector members of an Executive Committee shall constitute a quorum for an Executive Committee meeting.

IX. ***REVIEW AND ADOPTION PROCEDURES***

- A. All Task Force policy statements, model bills or resolutions shall become ALEC policy either: (1) upon adoption by the Task Force and affirmation by the Board of Directors or (2) thirty days after adoption by the Task Force if no member of the Board of Directors requests, within those thirty days, a formal review by the Board of Directors. General information about the adoption of a policy position may be announced upon adoption by the Task Force.
- B. The Executive Director shall notify the Board of Directors of the approval by a Task Force of any policy statement, model bill or resolution within ten days of such approval. Members of the Board of Directors shall have thirty days from the date of Task Force approval to review any new policy statement, model bill or resolution prior to adoption as official ALEC policy. Within those thirty days, any member of the Board of Directors may request that the policy be formally reviewed by the Board of Directors before the policy is adopted as official ALEC policy.
- C. A member of the Board of Directors may request a formal review by the Board of Directors. The request must be in writing and must state the cause for such action and a copy of the letter requesting the review shall be sent by the National Chairman to the appropriate Task Force Chair. The National Chairman shall schedule a formal review by the Board of Directors no later than the next scheduled Board of Directors meeting.
- D. The review process will consist of key members of the Task Force, appointed by the Task Force Chair, providing the support for and opposition to the Task Force position. Position papers may be faxed or otherwise quickly transmitted to the members of the Board of Directors. The following is the review and adoption procedures:
 - Notification of Committee: Staff will notify Task Force Chairs and the entire task force when the Board requests to review one of the Task Forces' model bills or resolutions.
 - Staff Analysis: Will be prepared in a neutral fashion. The analyses will include:
 - History of Task Force action
 - Previous ALEC official action/resolutions
 - Issue before the board
 - Proponents arguments

- Opponents arguments
- Standardized Review Format: To ensure fairness, a set procedure will be used as the format to ensure the model bill/resolution has a fair hearing before the Board.
 - Task Force Chair(s) will be invited to attend the Board Review
 - Task Force Chair(s) will decide who will present in support and in opposition for the model bill/resolution before the Board.
 - Twenty minutes that is equally divided will be given for both sides to present before the Board.
 - It is suggested that the Board not take more than twenty minutes to ask questions of the presenters.
 - Presenters will then be excused and the Board will have a suggested twenty more minutes for discussion and vote.
 - All votes will be recorded for the official record.
- Notification of Committee: The Director of Policy will notify presenters immediately after the vote. If the Board votes to send the model bill/resolution back to the task force, the Board will instruct the Director of Policy or another board member what to communicate.

E. The Board of Directors can:

- (1) Vote to affirm the policy or affirm the policy by taking no action, or
- (2) Vote to disapprove the policy, or
- (3) Vote to return the policy to the Task Force for further consideration providing reasons therefore.

F. Task Forces may only undertake educational activities that are based on a policy statement, model bill or resolution that has been adopted as official ALEC policy, unless the Task Force votes to undertake the educational activity, in which case the educational activity is subjected to the same review process outlined in this Section. It is the responsibility of the Task Force Executive Committee to affirm by three-fourths majority vote conducted in accordance with Section VIII that an educational activity conforms to a policy statement, model bill or resolution.

X. EXCEPTIONS TO THE TASK FORCE OPERATING PROCEDURES.

Exceptions to these Task Force Operating Procedures must be approved by the Board of Directors.